

NOTES ON INDIAN AFFAIRS.

NOTES

INDIAN AFFAIRS;

BY THE

HON^{BLE} FREDERICK JOHN SHORE, **1687**

*JUDGE OF THE CIVIL COURT AND CRIMINAL SESSIONS OF THE DISTRICT
OF FURRUKHABAD*

IN TWO VOLUMES

VOL. I.

LONDON:
JOHN W. PARKER, WEST STRAND.

M.DCCC.XXXVII.

CONTENTS

OF

THE FIRST VOLUME.

Number	Page
I. Preliminary Observations	1
II. The British-Indian Government illustrated	3
III. Behaviour of the English towards the Natives	10
IV. On the Feelings of the Natives towards the English	18
V. On the Use of the Hindostanee Language	25
VI. On Colonization	39
VII. On Bribery and Corruption among the Natives in Authority	50
VIII. On the Union of the Offices of Collector and Magistrate	65
IX. On the Office of Commissioner of Revenue and Circuit	71
X. On the Intercourse between the English and the Natives	75
Explanatory Letter, on the Character of the People	82
XI. On the Present Local Government	95
XII. On the East Indians	104
XIII. On the Government of British India	114
XIV. Same subject, continued	124
XV. On the Exclusion of the Natives of India from a share in its Government	135
XVI. On the State of Feeling among the Natives towards the British Government	145
XVII. On the Improvement of the Country	168
XVIII. On the Revenue System—Landed Tenures—and the Ryot- war Settlement	181
XIX. On the Introduction of the English Language into the Courts of Justice	211
XX. On the Formation of a Code of Laws	220
XXI. Retrospective and Prospective	227
XXII. On the System for the Administration of Justice in British- India	236

Number	Page
XXIII. On the New System for the Administration of Justice .	258
XXIV. On the Introduction of English Law and Customs into India	273
XXV. On the System of Purveyance and Forced Labour . .	307
XXVI. On the System of Economy lately introduced . .	344
XXVII. On the Anomaly and Indecision which characterize the British-Indian Administration	355
XXVIII. On the Future Internal Government of British India . .	389
XXIX. Impediments to Improvement caused by the existing System of conducting the different Departments of Government	409
XXX. On the Language and Character best suited to the Education of the People	433
XXXI. On the best Mode of ascertaining the Character of Public Officers	446
XXXII. Sketch of the British-Indian Administration . . .	464
XXXIII. Same subject, continued	491
XXXIV. On the Character of the People	513

INTRODUCTION.

THE facts and opinions contained in the following Papers are the result of more than fifteen years' actual residence in India, chiefly in the North-western Provinces of the Bengal Presidency; during which period, I have held various situations in the Police, Revenue, and Judicial departments, and have been in habits of close communication, both private and official, with the people of the country of all classes. They were first published anonymously, under the signature of "A FRIEND TO INDIA," in the *India Gazette*, one of the Calcutta daily papers; and having attracted some attention, and, I hope, been instrumental in effecting some little change in public feeling on the subjects which they embrace, I am induced to republish them in England.

In so doing, I must entreat the indulgence of my readers for the imperfections of style and language, and the frequent repetitions with which they abound. They were written in the midst of heavy official occupation, which scarcely afforded me leisure even to correct the rough copy; and the same cause still operates to prevent a more careful revision at the present moment.

There is one advantage, however, attached to their appearance in their present order,—that they mark the progress of public feeling on the subject of British-Indian government. Ten or twelve years since, had any man in India ventured to publish such strictures on the Indian

administration, he would most undoubtedly have been banished the country; and even as it is, the cautious and guarded tone in which the first papers were written, displays a strong contrast to the openness and freedom of those which follow.

The interest attached, for the time being, to some of the subjects discussed, is now gone by, in consequence of the changes that have been effected by the new Indian charter. The question of Colonization, for instance (No. VI.), has been set at rest; but the letter is retained because allusion is occasionally made to its contents. On others, it may be considered that I have been too diffuse, or given them more importance than they deserve. The repeated arguments on the Romanizing system will, doubtless, come under this condemnation; for an English public will scarcely believe that the absurd idea of persuading a hundred millions of people to change their national language, and its character, was actually contemplated; and that the personal talent and official influence of the individuals with whom it originated, might have prevailed in causing the attempt to be made, had it not been for the argument and ridicule with which it was assailed by various writers.

For the frequent repetitions, the only apology I can offer is, that the same cause in the system of the British-Indian legislation operates in so many different modes, that it could scarcely have been avoided.

One object has been earnestly kept in view in these Letters,—to simplify the several points which are discussed, and to avoid, as much as possible, the technicalities and local peculiarities which render Indian affairs so intricate and mysterious to the English reader. As

an illustration, I beg to advert to the attempt to describe the Ryotwar System in No. XVIII. The mystification in which it has been enveloped, has rendered it almost incomprehensible to those who have only read the official productions on the subject, and have not practically inquired for themselves; and the reasons for this mystification were simply, that the real principle was too unjust to be broadly stated.

Those, too, who are puzzled to divine the nature of the duties in which their friends and relations in India are engaged, disguised as they are under the hard and fine-sounding names in which Anglo-Indian legislators delight, will find the business of the different offices in which Europeans are employed, described in plain and simple terms, in various parts of these Letters.

With the same view, all the oriental and local words have been studiously expunged, and their synonyms given in English, as far as this could be done; where it has been absolutely necessary to retain a foreign term, the meaning is explained, either in a parenthesis immediately following, or in a note at the foot of the page: a glossary at the end of a book is so troublesome, that it considerably lessens the pleasure of reading. In some cases, oriental words have been adopted by the English residents in India, as a matter of convenience. Thus, *sepooy*, the Hindostanee word for soldier, and *soldier*, are always used to signify respectively an Indian and an English soldier.

Greater effect might probably have been produced, had leisure been afforded me to have remodelled these papers, beginning with the principles on which our British-Indian empire is founded, and then proceeding to

the detail of the different branches of the Government. The causes which led to the adoption of the views which I have here expressed, are described in the concluding chapter, which, indeed, might almost serve as an introduction, generally, to the work; after which, I would suggest to those who may favour these pages with their attention, to peruse the undermentioned numbers in the following order:—

1. Preliminary Observations.
32. Sketch of the British-Indian Administration.
33. Same subject.
13. Government of British India.
14. Same subject.
15. Exclusion of the Natives of India from a Share in its Government.
16. On the State of Feeling among the Natives towards the British Government.
 3. Behaviour of the English towards the Natives.
 4. Feelings of the Natives towards the English.
2. The British-Indian Government illustrated.
22. Old System of the Administration of Justice.
23. New System of the same.
18. Revenue System—Landed Tenures—Ryotwar Plan.
36. Proceedings of the Civil Courts.
56. On the Police.
27. Anomaly and Indecision which characterizes the British-Indian Government.
- Letter, explanatory, on the Character of the People, between Nos. 10 and 11.
 34. Character of the People.—General Observations.
 41. The same.
 42. The same.—Want of Truth.
 43. The same.—Litigiousness.
 51. The same.—Ingratitude.
 52. The same.—Honesty, Morality.
 53. The same.—Miscellaneous Observations.
39. Policy of Interference in the internal Affairs of the Native States.

The remainder may be perused according to the reader's pleasure.

It has been suggested to me, that an attempt should be made to render these observations more interesting to the general reader; but I fear this would be attended with little success; the detail of Indian government can have few attractions, except for those whose interests are involved in its proceedings, or whose affections are connected with the members of which it is composed; almost all others in England have objects of far more importance to themselves to occupy their attention. My only hope is, that I may “fit audience find, though few,” and that those few will exert their talents and influence in English society to further a cause in which the honour and interest of the English nation have so deep a stake, and which affects the happiness or misery of a hundred millions of our fellow-subjects.

For the egotistical style of the book, the epistolary manner in which the Letters were written must form the apology.

F. J. SHORE.

JUBALPOOR*,
March, 1836.

* The Author is now officiating as Civil Commissioner and Political Agent in the Sagur and Nubudda territories.

NOTES ON INDIAN AFFAIRS.

No. I.

A NEW era seems at length to have dawned upon this interesting country. Public attention has been much more directed, of late years, both in England and in India, to its concerns than formerly. The dislike of our rulers to have matters connected with the subject discussed, appears to have considerably lessened, and it seems to be the general opinion that the publication of temperate remarks, unexaggerated facts, and moderate suggestions of improvements, will be approved of by the public, and meet with attention from the constituted authorities.

Our present Governor-General* deserves the thanks of all who wish to see an improvement in the state of India, for the notification of his willingness to receive communications on the subject. This is one great step, but many more are required to promote the object in view. The time of a Governor-General must be so much occupied by the current concerns of so vast a government, that he can have little leisure to read private communications,—still less duly to consider and carry into effect any suggestions they may contain, particularly should they be much out of the ordinary routine of the mode of conducting business. Besides this, a Governor may leave the country before he has time to complete many arrangements, of the expediency of which he may be convinced; and may be succeeded by one, who, instead of carrying on any plans and wishes for improvement, may be content with allowing matters to proceed in the usual routine.

It is, therefore, eminently desirable to excite in the minds of the rising generation of functionaries, both military and civil, an attention to what appears to be wrong, and what is capable of

* Lord W. Bentinck.

improvement, both in respect to the government of the country, and in the manners of society, European and native, without in any way descending to attacks on individuals. They will thus have ample time to inquire into what is pointed out, and be prepared, when they rise into authority, successively to carry on a scheme of improvement calculated to benefit all classes of the community.

I believe that many of those who have the power, have also the will, to benefit the country and the people; but they labour under the difficulty of ascertaining what will conduce to this end. The situation of most of the civil and military officers, their official rank, and the obligation of keeping up a certain form and dignity, in some measure preclude them from mixing unreservedly and intimately with the natives of the country; the result of which is, that they remain in ignorance of many things that are wrong, and which would be corrected if duly brought into notice; and they are prevented from gaining intelligence of much which, if carried into effect, would conduce to the welfare of the country. The majority, however, of these functionaries purposely keep aloof from the people, wrapped up in their own dignity, which they think would be lowered were they to hold any communication with any natives, except such as are officially employed; they consequently are shamefully ignorant of the manners and customs of the people, and even of their own duty.

One great drawback to any improvement of the present system of government, is the absence of any community of feeling between the rulers and the people. The framers of the laws are so far removed from those who feel their operation, that the former cannot thoroughly perceive whether these laws work well or ill; and before the mischief of an improper regulation has been discovered, great evil has sometimes been the consequence. I have heard the situation of an Indian Government functionary aptly compared to a man on an eminence: he is conspicuous to all around, and has a tolerably general view of the country, but cannot clearly observe its details. The people, on the other hand, do not always perceive this. To an observation that the magistrate or collector would correct such and such an abuse

if informed of it, they often answer, “ The thing is notorious ; he must know it ; if he cared about benefiting us, he would do so : ” and they are thus often led to impute to their governors an inattention to their welfare, from not sufficiently understanding the cause. There is, however, a class in the country, whose business obliges them to become sufficiently acquainted with the natives to acquire a knowledge of their feelings ; and, at the same time, who are not so far removed in society from the officers of Government as to prevent these profiting from the information gained by the former. It will be easily understood that I allude to the merchants and indigo-planters, particularly those who live in the Mofussil. Some of these, as well as a few of the Government functionaries, have observed closely, and noted the result of their observations.

Among other things, I am inclined to think that the feelings of the people are not so cordial towards our government as they are generally supposed, and that our tenure of India is not so firm as might be desired. An inquiry into the causes of this opinion, whether it tends to confirm or refute it, may, if temperately conducted, be productive of good ; and may possibly conduce to an improvement in the conduct of the governors, and in the situation of the governed.

January 12, 1832.

No. II.

THE BRITISH INDIAN GOVERNMENT ILLUSTRATED.

IN my first number I intimated an intention of continuing the papers occasionally at my leisure. I find, however, that it would require more time and trouble than I can spare to form a general plan ; and, instead of arranging the different subjects in regular succession, must content myself with taking them at random from my note-book.

I observed, that I was inclined to believe that the feelings of the natives of this country are not so cordial towards our government as is generally supposed ; and that our tenure of India is

less firm than might be desired. This opinion is not adopted from any preconceived idea, formed from the works of those who may have written on the subject. On the contrary, on my first arrival in India, some years since, I fell into the mode of thinking which I found so general among the English, that the natives were a low degraded set, with very few good qualities; their institutions, customs, and government, excessively bad; while we and ours, on the contrary, were everything that was excellent; and that they were pleased and grateful to us for having substituted a good government for their own bad ones. Subsequently, after having been employed in various parts of the country, chiefly at a considerable distance from Calcutta, in concerns that brought me into close contact with people of all classes, especially with the farmers and merchants, I was induced to alter my opinion.

The next point was, to endeavour to investigate the causes of this feeling among the people; and the result of my inquiry was, that they appeared to be attributable both to Government and to individuals. The present paper will touch chiefly upon the former; and as I know that the correctness of the statement itself may be doubted by many, and denied altogether by others, I think it will be rendered more familiar to English ideas, if the observations are put in the form of a comparison.

In pursuing the following mode of illustration, I am disposed to make due allowance for the peculiar difficulties in which our first settlers in Bengal were unquestionably placed. Suppose then that, about the beginning of the last century, a few African merchants received permission from the English government to erect a factory somewhere on the south coast of England; that, some years after, an English revenue defaulter, or criminal, took refuge in the factory; that the Africans refused to give him up; and that the English took possession of the factory, and confined the Africans; that their Government sent ships and troops to attack the English, and force them to give up a small portion of territory.

The Africans find that a member of the royal family has a strong party in his favour, (Prince Charles Edward, commonly

called the Pretender, would have well suited their purpose,) and persuade him to mount the throne, which, with their assistance, in addition to his own party, there is a probability of effecting. They then pick up a quarrel, go to war with the English, depose the king, and establish the other. A short time afterwards, they treat the new king in the same manner, and set up another; and not long after, depose this last, and establish the one they had first made king; the chiefs, in each case, not only receiving large private bribes, but being guilty of treachery and forgery*.

The Africans then, having very small pay from their own masters, try to make a profit by trading; they not only insist on the English king's exempting their goods from payment of duty, but on his imposing a high one on those of his subjects. They send factors and agents all over the country, each of whom erects himself into a petty chief, and forces people to sell him their goods and buy his, at his own price, until the people are so distressed, that the king abolishes all duties altogether. This the Africans consider a crime, and, after some negotiation and altercations, finish by deposing that king, who is succeeded by another of their own creation.

They next persuade the existing king to disband his own troops or the greater part of them, and to rely on those of the Africans to protect him and his dominions, he paying their expenses. Shortly after, they make out that his payments are in arrears, or they say that they apprehend that this will be the case, and insist on a part of his territory being assigned to them to secure regular payment. The nobles and upper classes they gain over, by promises of support and protection. This done, they take away the estates from the Lord-Lieutenants of counties and the great noblemen, on the plea of some flaw in the original grant by the Crown, or that the holders of the estates had not complied with the conditions of the feudal tenure† on

* See Mill's account of the treatment of Omichund, and other points similar to what are supposed above. However Mill's opinions and deductions may be disapproved of, for facts he is, I believe, undoubted authority.

† I am aware that the feudal tenure was abolished by (I think) cap. xii. Car. II., but the Africans might tell us that the Stuart family having been deposed, their acts would not hold good. This would be as good a pretence as some the English have made use of in India.

which they had been granted, or some equally good reason ; giving them pensions, which they hold out hopes are to be hereditary, but which are subsequently reduced, or discontinued altogether.

The land-tax is then indefinitely increased to such a pitch that the proprietors of estates are reduced to beggary, and, being unable to pay the demand, their estates are sold, till scarcely an ancient landholder possesses the land of his fathers, the new purchasers being clerks and menial servants who have been attending on the Africans. If the people complained, the Africans would say, that although our own Government did not act thus, they possessed the right to do so, and that they, having succeeded to the government, acquired that right which they choose to exercise.

They then take every opportunity to acquire more territory, much in the same way that they acquired the first portion, till at last they get possession of the whole of the British isles ; treat the people as above mentioned ; and giving the king a pension, shut him up in Windsor Castle.

If the king and other pensioners urged, that they had lost their influence with, and respectability in the eyes of the people, and that having nothing to occupy their attention, they were in danger of degenerating, which would be insured by their not having enough to support their families, they are told that they are much better off than before, that their dignity and that of their families is now secured, by their being certain to receive their pensions regularly under the stability of the African government ; whereas, formerly they had much trouble in realizing their incomes, and were obliged to have recourse to much bribery to secure a sufficient number of votes in the Commons.

On the first acquisition of the southern provinces of England, the Africans allowed the customs of the country (not laws exactly, for, being ignorant of them, they disregard them,) to remain, and from time to time introduced regulations of their own, forming a code. On successively gaining possession of the Northern provinces,—Scotland, Wales, Ireland, the Hebrides, Shetland and the Orkney Islands,—that code of regulations is put in force all

over the country, without any inquiry or consideration how different the people of the several countries were from each other in manners and customs, and even language.

At first they leave us our justices of the peace, periodical courts of justice, and other local authorities; but on finding one or two instances of those in office turning their power to their own advantage, the Africans declare that the natives are so corrupt that they are not fit to be trusted; and that some provision must be made by appointing African judges and magistrates, who would properly administer justice. They accordingly abolish forthwith every local authority, and establish, on an average, one court for each county; in which one person, with one or two assistants, and sometimes without any at all, is sole judge and magistrate. To assist him in the details of his office, some of the natives are employed; but the salaries are fixed at so low a scale that none but the lower classes will accept the offices. Under the magistrates, upper-constables, with a proportion of inferior ones under them, are distributed over each district; their pay and the sort of people chosen, being as above-mentioned; and these men are intrusted with, on the whole, directly and indirectly, greater power than the former magistrates possessed.

These courts would be bad enough under any circumstances, more especially if the Africans should choose to order the business to be conducted in *Norman French*; but under each, the extent of country is such, that the people would have to go, on an average, twenty miles to settle the most trivial matter,—sometimes more than an hundred*. The delay is so great, that a petty complaint before the magistrate, or petty theft case, is often a fortnight or three weeks before it is decided; and small money causes of a few pounds value, are often pending a year or more, before the first decision,—to say nothing of the subsequent delays by appeals.

* The Indian districts would probably be found, on an average, larger than most English counties. Some parts of the Jungle Mubals are more than eighty, some of the Ramghur more than one hundred, and some of the Moradaban districts were, till lately, more than one hundred miles respectively from the civil station. Cawn-pore and Allahabad are one hundred and twenty miles from each other, with, till lately, no station between. Many others might be mentioned.

I have said before, that of our laws the Africans know little or nothing; to which it may be added, that their regulations, although rather voluminous, leave many points, of considerable importance to us, wholly unprovided for. In these cases, we are often left to the mercy of young men of two or three and twenty, who have had little or no experience; and the hardship is the greater, because the ideas of the Africans are in many points very different to ours. One of them will, perhaps, fancy that the customs of the natives are to be supported, and decides a case accordingly. Another succeeds him; and conceiving his own notions to be superior to the opinions of the natives, decides just the contrary.

For instance, in our business of apprenticeships, an idle apprentice leaves his master, who complains to the magistrate; the latter, finding the customs of the natives warrant such a decision, punishes the apprentice, and obliges him to return to his master, and resume his work. The same thing happens in the neighbouring district; but the magistrate there, taking a different view of the matter, exclaims, "What! must the boy be obliged to learn a trade whether he likes it or not? be forced to work seven years for his master without wages; and not only that, but to pay money to his master for being allowed to do so*? preposterous!" and instantly discharges the boy, telling him he may do as he pleases, and perhaps fines the master.

Suppose the Africans behaved to us in a haughty supercilious manner, and treated us with slights, and even insults, to such a degree that it had almost become a saying with us, that "to have any transaction with an African is to be insulted;" that the greater number of them were in the habit of abusing their servants, or even beating them, for the most trivial fault,—often for no other reason than their not understanding a jargon of broken English; that they neglect to learn our language, contenting themselves, in the first instance, with having one or two of the

* The proceedings of many English magistrates are, in regard to slavery cases, equal in absurdity and injustice to this: this is not intended to defend the practice of possessing slaves,—but a regulation, deciding once for all, whether slavery in India is to exist or not, would be a boon to the people, by enabling them to know how they were to act.

worst of the natives about them, who interpret for them, and afterwards with merely learning a low jargon.

Suppose also many of them should be in the habit of taking servants without any previous inquiry as to character; and were accidentally to engage, without being aware of it, thieves and women of bad character; and when told of it, to say, they considered all the natives as such rascals, that one was as good as the other.

Suppose that we had generally some feelings of religion; that the Africans did not, by their behaviour, appear to have any at all; and that many of them were in the practice of deriding our ceremonies, walking into our churches with their hats on, and doing other little acts annoying to our feelings.

Suppose, in fine, that after the above treatment of us by both Government and individuals, when they were told that the English were discontented with their government, some of the Africans denied that it were possible. others asserted, that it was a proof of the badness of our disposition, that we ought to be grateful to them, that we had been constantly fighting either with our neighbours or among ourselves in consequence of rebellions*, and that we ought to be thankful that we had at last got a stable government under which justice was secure, &c. &c.

Those of the above suppositions relating to government are sufficiently borne out by Mill and other historians, whose facts have not yet been disproved, and by the different Reports of the Committees of the House of Commons; and those regarding individuals will be found too true by people who observe and judge for themselves. Under these circumstances, should we like the government of the Africans? And is it surprising that our rule is not popular among the natives, as we are desirous to have it supposed to be?

February 14, 1832.

* Our history up to seventy or eighty years back is not much else.

No. III.

BEHAVIOUR OF THE ENGLISH TOWARDS THE NATIVES.

“THERE exists a penal law, deeply written in the minds of the whole white population, which subjects their coloured fellow-citizens to unconditional contumely, and never-ceasing insult. No respectability, however unquestionable, no property, however large, no character, however unblemished, will gain a man, whose body is (in American estimation) cursed with even a twentieth portion of the blood of his African ancestry, admission into society! They are considered as mere pariah, as outcasts and vagrants on the face of the earth! I make no reflection on these things, but leave the facts for your consideration.”—*Fearon's Letters on America*, p. 168. *Ex-Quarterly Review*, p. 130, No. 41, May, 1819.

THE above quotation is so nearly applicable, that I cannot help introducing it as a commencement to this subject; and in this paper I shall enter a little into detail on one of the reasons why the English are not so popular among the natives as is generally imagined.

The haughty superciliousness, arrogance, and even insolence of behaviour, which the generality of the English* think it necessary to adopt towards the natives, by way of keeping up their own dignity, is extremely great. This conduct appears to be rather on the increase, but to such a pitch has it already been carried, that the feeling among most of the natives is rather to avoid than court intercourse with the English; as by even paying a visit to an English gentleman, the former are more likely to be treated with slight and neglect, than to meet with civility.

It is not at all uncommon in society to hear a young man, who has been only a year or two in India, who is totally ignorant of the native character, or even language, beyond a little Anglo-Hindoostance jargon, say, that he “*hates the natives;*” and insist that they have not a single good quality, but almost every bad one; that he considers them as a degraded race; and much more to the same purpose. I have even heard more than

* I chiefly allude to the civil and military officers.

one say, that "he liked to beat a black fellow!" In England, such language as this, in regard to the inhabitants of any country, particularly if the speaker were a young man, unacquainted with the language and customs of that country, would procure for him the reputation of an illiberal blockhead, or perhaps worse. But so far from this being the case in India, a man who speaks in this way of the natives, often has the greater part of the society in his favour, and hears himself supported by sundry observations corroborating what he says. While a person who does know something of them, and consequently does not see so very great a difference between them and himself, (vide Sir John Malcolm,) can only venture to say a word in their favour, with the almost certainty of being ill spoken of by the majority of his countrymen. One of the expressions very commonly used, and meant as one of dissatisfaction, is, "Oh, he is fond of the natives!" One would suppose the principle adopted was, to treat the people as a degraded, inferior race. This feeling at least shows itself daily, and pervades, more or less, every thought and action. Few Englishmen return the salute of a native; they can hardly bring themselves to speak to them civilly. The slightest fault of a servant is visited, if not, as is frequently the case, with blows, with the most gross abuse; forgetting how degrading this conduct is to the person making use of such language. The language of Billingsgate is in hourly use towards servants in the situation of butlers, footmen, and even clerks; and very often for no fault beyond not understanding what their master said, who probably spoke unintelligibly. Servants are frequently beaten and turned away without paying their wages, for the same reason, the fault alleged being insolence; this being the usual reason assigned, when an Englishman loses his temper and ill-treats his servants without cause.

Should a native of rank come to pay an Englishman a visit, on his being announced, the answer often is (in English), "D—— the black fellow;" then (in Hindoostanee), to his servant, "Tell him I have not time to see him." Should he be admitted, he is received with a negligent return of his salute, often without any at all; a chair is handed to him, and perhaps a word or two is

addressed to him in bad Hindoostanee, without those civilities of speech which are usual among men of rank ; such as addressing him “ toom ” instead of “ ap,” which is much the same as if one English gentleman were to address another, “ You fellow.” And this, perhaps, only if the Englishman is by himself. Should he have one or more friends sitting with him, they usually continue their own conversation in English, and scarcely take any notice of the native. Should one of the company observe that as he had been admitted, it would but be civil to talk to him, the answer often is, “ Oh, d—— the black fellow, I wish he would not come plaguing me ; I do not want to see him : besides, I do not know what to say to him, these fellows have never anything to talk about.” Yet the native who is thus spoken of, is perhaps a prince, and the descendant of princes ; one who is well conversant with the history of India, or, perhaps, for I have known such instances, one who would put to shame most Englishmen by his knowledge of our own British Indian laws and institutions ; and from whom much information might be gained on points connected with the government of this country. While probably the Englishman, who thus speaks of him, may be one whose chief conversation is about horses and dogs, scandal, or battalion duty, or promotion, should he be in the army ; or consists of anecdotes of his office, should he be a civilian.

What renders this sort of behaviour the more reprehensible is, that it is sometimes accompanied with a meanness highly degrading. Sir John Malcolm’s anecdote of the Persian, who thought he could gain the good-will of the English envoy by a present of wine, and a pretty woman, is often laughed at by us as a good joke ; but it is probable that the Persian might, in the course of his experience, have seen and heard enough to afford him some grounds for his idea. It is by no means uncommon for an Englishman, when on a shooting excursion, to call on a native, near whose residence he may be passing, and pay him great attention—to borrow an elephant ; although he had no previous acquaintance with him. Afterwards on the native’s coming to that person’s station, and sending his compliments to say, that, if convenient, he wishes to pay his respects to him, the treatment he

experiences is too often that which I have described. It may be asked, would one English gentleman treat another in this uncere-
monious and uncivil manner? Then why should we behave to the natives in a way in which we would not, and it may be added, dare not, behave to one another?

In the present times, when an Englishman does treat the natives with merely common civility, he is looked upon as a wonder; so little are they accustomed to such behaviour; and is spoken of by them with respect for miles beyond his station.

To treat the natives civilly—to speak of, and to them without abuse—to study their language, manners, and customs—to make oneself acquainted with their history,—all these seem, if one may judge by their conduct, in the estimation of many of the English in India, to be degrading to their dignity. Yet, setting aside the axiom of “the proper study of mankind being man,” it may reasonably be asked, whether the civil and military officers of the Company might not very rationally spend a small portion of their idle time, in acquiring a knowledge of the language and customs of those whose property, and even lives, will sometimes depend on their knowledge or ignorance on these points, when brought before them as judges and magistrates? Or, without such knowledge, how is an officer to make his soldiers respect him and exert themselves in the hour of trial?

Formerly, the English did pay some attention to the natives, and treat them with some consideration and civility; and instances innumerable are on record of the beneficial effects of such behaviour; while not one can be adduced of any evil consequence arising from it. But since, for many years, the English have adopted an opposite mode of conduct, it is no wonder that the natives regard them with dislike, and that this dislike is on the increase.

Though habits of discipline, perhaps, prevent this feeling from showing itself so much in the army, yet it prevails among the Indian soldiery fully in as great a degree as among any other class of natives. It is by no means uncommon for an officer to curse and swear at his men on parade, and use most disgusting terms of abuse to them. I have heard of a commanding-officer,

who applied epithets of this description to his English officers; so far had the habit of abusing his native soldiers been strengthened by custom, as to overcome his prudence. This is not the way to induce the native soldiers to respect their officers.

The want of consideration towards the feelings and opinions of the natives of India is, indeed, very great on the part of the English. "Who cares what the natives think?" is a common expression. In many instances this shows itself in a disregard of their opinions in points which are not in themselves of any intrinsic importance; but which, if we wish to make the people respect us, it would be prudent to attend to.

But in many cases it shows itself in conduct, not only wantonly insulting, but in the greatest degree unjust towards them; and it is only surprising how patiently they bear the ill-treatment. Nothing is more common than for an Englishman to enter a mosque or Hindoo temple without taking off his shoes. Should the attendant priests remonstrate, they are usually abused, often beaten. Now, on the point of taking off our shoes, it may be observed, that this, like any other mode of testifying respect, means nothing in itself beyond the idea that is attached to it,—it is no more than taking off our hats; and if the natives prefer the former, it would, to say the least, show our good sense and a kind feeling to humour them, particularly as the English are so fond of boasting of their liberality and freedom from prejudice. However that may be, we have no right to annoy their feelings wantonly: if we dislike complying with the above custom, we may, at least, refrain from entering their mosques and temples. The practice of Heber, a man in ten thousand, was in strict conformity to these observations.

In many places a pond or a particular part of a stream is stocked with fish, and considered holy by the Bramins, who regularly feed the fish: the English gentlemen who pass these spots usually amuse themselves by angling in them, often abusing or even beating the Bramins, if they remonstrate. Thus, however absurd it may be in these people to venerate the fish, not only violating their religious prejudices, but, to consider it in no other light, invading private property.

The English gentlemen almost universally make a practice of treading down the corn, just as it is ripe, in search of quails : and as they usually take with them a long line of beaters, the damage done is very great. I have often seen a field of gram* in such a state from the above cause, that the poor cultivators were reduced to pick up the produce from the ground almost by single grains.

I know an English officer who was once travelling by dāk : at one stage he found no bearers ; and while waiting in his palanquin, a respectable-looking native came and spoke to him. The officer, who did not understand much of Hindoostanee, asked if he had brought bearers ; and receiving an answer in the negative, told him harshly to get away and not plague him, unless he would bring him bearers, which was all he wanted. The native looking excessively surprised, induced the officer to speak more mildly, and ask what he wanted ; when he found that the native had actually come to ask him into his house, and offer to procure him some breakfast, until the bearers should arrive. Although the officer did not at first understand what the native said, there was no occasion to treat him uncivilly : but he took it for granted that the “ d—— black fellow ” was plaguing him for something, and answered him accordingly. This was told me by the officer himself, who, to his credit, added how much he was ashamed of himself for his behaviour.

I could relate many anecdotes to the same effect, but will only add one more, which places the feeling above described in a ludicrous point of view. Two gentlemen were on a shooting excursion in a rocky and wild part of the country, a considerable distance from any place where English articles could be procured. One of them having worn out or torn all the shoes he had with him, supplied himself with a couple of pair of native shoes. A day or two afterwards, the other's shoes having also worn out, the former offered to lend him a pair, which the latter rejected, saying that he hated the natives so much, that he should be sorry to do any thing that they did ; and thus continued to hobble on like Peter Pindar's pilgrim, galling his feet at every step, for the pleasure of

* Gram, a species of vetch with which horses are chiefly fed in India.

showing his dislike to the natives, by not wearing, for a few days, a pair of shoes of the pattern worn by them, to the great amusement of his friend.

We hear constant complaints of the natives being disobliging, and of the difficulty an English traveller has in procuring, when immediately out of a civil or military station, a few bearers^a, porters, a cart, &c. What can be the reason of this? for it was not always the case. The natives universally give as a reason, the fear of being ill-treated, and not paid for their labour. There are all over the country hundreds, I might say thousands, of natives, whose sole livelihood is working, and letting out carts for hire; some of whom are, perhaps, sitting idle, at the very place where the English traveller is, in vain, endeavouring to procure them. It is hardly possible that a reason so generally given should not have some foundation. The truth is, that, in very many instances, the assertion of the people is correct. I am willing to believe that it is not often that English gentlemen refuse to pay men hired for their work (though this does sometimes happen), but very often they are too indolent to take the small trouble it would require to see that the men are paid; and by leaving it to their servants, the latter pocket the money, and drive away the coolies or bearers. These poor people have no other means of informing the master of what has happened, than by raising an outcry outside the tent: this, particularly (as is sometimes the case) when it is accompanied by an exclamation from the servants, that the men want more than their proper hire, is usually followed by a voice from within the tent to drive away the rascals who are making such a noise. It would be difficult to persuade the natives that they were treated in this way without the Englishman's knowledge; and the consequence is, that they avoid having any thing to do with us. Few Englishmen can ever have ridden into a village without seeing many of the people run and hide themselves at his approach; or without hearing them, if asked the way to a place, deny all knowledge of it, under the apprehension of being obliged

^a Bearers are a tribe of men who carry loads suspended to a pole which rests on the shoulders: porters (coolies) carry the loads on their heads. Both will perform various other services; but neither, generally speaking, will carry a load in any other than the prescribed manner.

to accompany the Englishman to show the way, without being paid for their trouble.

It is by no means my intention to assert that all the English behave as above described, but it is lamentably true, that too many of them do so ; and, as too often happens in such cases, the bad conduct of some brings discredit on the whole. The acts of Government, even if they are unjust, often affect comparatively few ; but the behaviour of individuals is felt by all in their daily and hourly intercourse with us ; and where the conduct is such as is above described, it galls the feelings of the people almost beyond description.

In a great measure the blame of all this may be attributed to Government. At the annual disputations of the college of Fort William, it was usual for the Governor-General, in his speech to the young men, to recommend them to adopt a civil manner of behaviour towards the natives, to have some consideration for their prejudices, &c. This was all very proper ; but when these young men came to be employed in Government offices, and found that those situations only of which the pay was so small that no Englishman could live on it were filled by natives, they would naturally suppose there was some truth in what they had heard of the incapacity and roguery of the people ; and from considering them as a degraded race, it was but a step to treat them as such.

Although so much has been done to give sufficient reason for the natives to dislike the English, it is not yet too late to retrace our steps. The present Government has set the example of a better feeling towards the people than has hitherto existed, at least as far as professions : if Government will act up to these, and if individuals will adopt a kind and conciliatory conduct towards the people, we may see the time when they will bless the day that made them subject to the English rule.

March 5, 1832.

No. IV.

ON THE FEELINGS OF THE NATIVES TOWARDS
THE ENGLISH.

IN the preceding Number, enough was said to indicate what feelings must necessarily be excited in the breasts of the people of India, by the treatment they receive from the English. The natural consequence of the haughty, supercilious, and even insulting conduct, which we seem to think it proper to adopt towards them by way of keeping up our dignity, is, that they regard us with disgust and dislike, which, if not checked by a different behaviour on our part, will soon grow into hatred. I will now endeavour to enter a little into detail on this subject, and will not only advert to the reasons why, but also give proofs that the feelings of the people towards us are such as is above described.

The first reason alluded to in the last Number speaks sufficiently for itself. Another is, the extreme carelessness of the English in many points of conduct. Some of these are, in themselves, unimportant; but, as in the estimation of the natives they are not so, where it can be done without inconvenience, it would be wise to pay attention to their opinions. As the observance or neglect of these points will have considerable effect in causing us to be respected or otherwise, I will mention a few of these.

The practice of employing men of low caste as servants. They are often sent with notes and messages. Many even employ men and women of the *maiter** caste as cooks and female attendants.

Many of the English have a custom of sitting with their legs upon the table, and that, too, sometimes when the dessert they are eating after dinner is on the table,—a dirty habit certainly, and, in the ideas of the natives, about as bad as we should think it to put our dirty shoes into the dishes out of which we were eating. It is particularly annoying to them when practised in the presence of respectable natives, who are attending on business that requires them to handle papers on the table.

It is not uncommon, when respectable natives are with us, to

* A tribe who perform the lowest offices.

have the tiffin*, of which beef or pork may form a part, brought into the room, and perhaps put on the same table about which they are standing.

The consequence of our adopting such customs as these (and many others of the same sort might be mentioned), is, that we are, in general, considered as a low-caste race. By many, perhaps by most, they are practised inadvertently; but it would be a very little inconvenience to refrain from them at such times as might annoy the natives, and we should gain in their estimation.

But there are other practices which have become common among the English, which are highly reprehensible. One of these is the allowing our men-servants to enter the ladies' bed-rooms, and even to make the beds. This is so general, as certainly to be the *rule*, and the contrary practice the exception. It is difficult to account for the introduction of a custom so totally at variance with English feelings of delicacy, as well as repugnant to those of this country. Yet I have heard it apologized for by both ladies and gentlemen, who observed, that although they should be shocked at the idea of allowing the same liberty to an English servant, they considered a native as nobody.

Our disregard of many common forms of civility, making use of vulgar Hindostanee, neglecting to return salutes, and adopting a supercilious behaviour towards them, has been before touched upon; and it is no wonder that the result of all this is, that we are regarded by the natives as a low people, who are unacquainted with the proprieties of manner which ought to mark the conduct of gentlemen. The correctness of this may, perhaps, be doubted. Many will say that the respectful manner in which civil and military officers are addressed is sufficient to disprove it. But "all is not gold that glitters." People in authority may expect to receive profound salaams† and external respect from those dependent on them here as in other countries. The few who have had sufficient opportunities of looking beyond the surface, have taken advantage of those opportunities, and are really acquainted with the tone of feeling among the natives, will know that the

* Indian name for luncheon.

† Salaam, the oriental bow.

above statement is true. I will even go further, and assert, that from being aware that some few individuals, both civil and military, are of low origin, they are too much inclined to think that this is the case with the generality of the English.

A further proof on this subject may be drawn from the behaviour of the natives themselves in their intercourse with us.

The servants, who now attend us, are generally of a far less respectable class than formerly.

When we first obtained power in India, the Moosulmans did not scruple to eat with the English, to accept entertainments from them, and to give them in return. I once heard Colonel S. say, that when he first began his career this was the case. During a late visit to England, on mentioning to one or two old Indians, who had left this country more than thirty years since, that the Moosulmans now refused to eat with us, they would hardly credit it, and asserted that, not only in their time such a thing was never heard of, but that very frequently a civil or military officer, marching about the country, would receive invitations from the upper ranks of Moosulmans to put up in their houses instead of remaining in his tent. In confirmation of this, I refer to the journal of an officer travelling in the Nizam's country in 1791, published in the Oriental Collections. At the present day such invitations are extremely rare; and, with the exception of the Nuwab of Lucknow, and one or two half-Anglicized Moosulmans, whose imitation of the English manners consists chiefly in drinking wine, none of them will eat with the English. There must be some reason for this change,—for the Moosulmans have no natural aversion to eating with a Christian. To this day in Turkey, Persia, and Afghanistan, no such objection exists.

That our servants are generally of a less respectable class than formerly I will give one or two proofs. It was a common and correct observation, that the English children spoke better Hindostanee than their parents. The reason was, that the women-servants in attendance on the English were from decayed Moosulman families of the better class. Now there is scarcely one of that description to be found in a lady's service. Those employed are chiefly wives or widows of grooms and other menial servants,

many of them of the *maiter* caste: and it is scarcely possible to procure any others.

The peculiarities of caste cannot well be understood by strangers on their first arrival in India; and as many of the English do not appear to know more about the matter after several years' residence, the illustration may be of some use. Suppose a foreign family, on their arrival in England, were accidentally to engage for servants, both men and women of bad character; and that when their error was pointed out to them, they were to say that they cared not about the matter, provided the servants did their work; would they not, by such conduct, forfeit the good opinion of the English gentry, and find it impossible to get a respectable servant, male or female, to enter their service, as long as they retained those above-mentioned? Suppose the French who reside in England (or the Africans alluded to in a former number), were generally to act in this way; would not their doing so cause a prejudice against them, as people who had no consideration for good or bad character? Would there not be a general dislike among servants of respectability to enter the service of a Frenchman? And would it not be extremely difficult for an individual Frenchman, who saw the impropriety of such conduct, to conquer such prejudice, and procure respectable attendants? The above is no far-fetched supposition. I have repeatedly heard English gentlemen, who, from their long residence in India, and the situations they had filled, ought to have known better, on being told of their having low-caste servants, of which they were ignorant, make use of the very words of the Frenchman's supposed answer.

What the feelings of the English would be in such a case, are those engendered among the natives, by our carelessness as to the caste of those we employ. Among the mass of the people the idea is, that the English prefer low-caste servants, as approaching nearer to their own. Some few, who have lived for some time at one place, and evince some consideration on these points, do succeed in procuring a better class of servants; but the attendants of the majority of the English are the scum of the country. How else can we account for the great difference in the character given of "the sepoys" and "the natives" by most of the English,

especially by the military officers? The former are represented as possessing almost every virtue: to the latter is ascribed nearly every bad quality.

The fact is, that the term used, viz., “the natives,” can only apply to their own servants; for they have had none but mere official communication with any other class, excepting the native troops, who, by their account, are all but perfection.

The insolence of the natives is a common theme of complaint at the present day, and it is true that they do not behave with as much respect as they did some years back. I was told by an English merchant, who resided in the Dooab* before that part of the country was subject to the British government, that when he first went there, hardly any native would pass an English gentleman without saluting him; and that the most respectable of them would stop their conveyances, and often alight as he passed them on the road. The case is now so different, that few Englishmen receive any outward marks of respect, and those chiefly from their dependents. The truth is, that the people were so disgusted by our ungentlemanlike conduct in neglecting to return their civilities, that they have almost ceased to show us any. When they do meet with a person who knows what is right in this particular, and find their civility returned (which they now hardly expect), they seem quite surprised; and I have seen them look at each other quite pleased, and with a countenance expressive of, “this is a gentleman, he knows how to behave,” and have heard them say so, and conceive a prejudice in favour of the individual.

I will mention one anecdote to show what ideas the people must entertain of the English; and shall premise once for all, that by the term “natives” or “the people of India,” I do not mean a few servants taken from the worst part of them, but the better sort—the merchants, farmers, and peasantry, with whom I have been brought into contact; not forgetting the small remnant of the old native gentry which still exists, and with a few of whom I am acquainted. The story is literally true, without any exaggeration.

* The tract of country between the Ganges and Jumna. The English obtained possession of it partly in 1802, and partly in 1805.

I was once in a shop in the city of Agra; the bazar, which was narrow, was crowded: an officer (whom I do not know) was riding slowly through, the people making way for him as he passed. A blind man was in the road, not knowing which way to go, and the officer stopped his horse, called to a bystander to lead the blind man aside, and then rode on. The people broke out into exclamations of "Well done! what a kind act! most English gentlemen would have struck him for being in the way."—What must be their opinions of the English when so simple an act of humanity could cause such a sensation! and is it possible that such ideas should exist altogether without cause?

Another reason I would state for the low estimation in which the natives hold us, is our great laxity in matters of religion. For many years after the English obtained footing in India, they behaved as if they had none at all, which the mass of the people really thought; and, although matters have lately much improved in this respect, we have not yet done enough to eradicate the bad impressions caused by our former conduct. The people of India have strong religious feelings, and proportionate contempt for those who have not. It is not necessary (as some by their conduct seem to have imagined) to affect the adoption of any Hindoo or Moosulman tenets;—an attention to their own forms of religion will go far towards obtaining for any class the respect of the Indians.

If kind feelings towards them are not a sufficient inducement to us to endeavour to gain their good-will, political considerations ought to be. Most Englishmen seem not only to set their opinions at nought, but almost to consider them incapable of forming any. Never was there a more mistaken idea, or a stronger proof of the little acquaintance of the native character possessed by the majority of us. They have much more intelligence than is generally supposed, and are very good judges of character. I never found a gentlemanlike man, or a ladylike woman, who was not well spoken of by them as such.

It ought to be the object, not only of every Government servant, but of every Englishman in India, to strengthen the stability of our rule; for dreadful indeed would be the state of

the country, were the British authority suddenly to be withdrawn. This will not be effected by a behaviour which must naturally render us unpopular. Notwithstanding the charge of ingratitude so constantly brought against them, there are few people who feel kindness and civility more than the natives of India. A mode of conduct in which these are evinced, will speedily gain their good-will and respect, and this will be one of the best foundations for the continuance of our authority.

It is probable that the prejudices of the mass of the English will make them consider this paper as not very palatable, and perhaps question its correctness; particularly as it contains statements and facts so mortifying to their vanity: but I also believe that there are many who err in the way treated of*, more from inadvertence than design; and who have sufficient good sense and feeling to alter their conduct when they are aware of its impropriety. It is among these that I have any hopes of doing good; but the influence of their example will extend over a much wider range.

Some may, perhaps, imagine that I am running into the extreme of entertaining too high an opinion of the natives, and too low a one of the English. I shall merely observe at present, that I by no means think the former immaculate, and may at a future time make some remarks on their faults and failings, as well as good qualities.

April 10, 1832.

* Some young men, who do not appear to be unkindly disposed, seem to have got an absurd notion, that in our situation as governors, it is improper to (what they call) make a salaam to a native in return for his. What intrinsic difference can there be between putting the hand to the forehead, or touching one's hat? If, however, they prefer the latter mode, they will find the natives sufficiently free from prejudice to be satisfied with it.

No. V.

ON THE USE OF THE HINDOSTANEE LANGUAGE.

It would naturally be supposed that when a number of individuals of one nation were placed in authority over another, as judges, magistrates, military officers, and in other capacities, it would be expedient that they should be able to communicate freely with those over whom they were appointed to preside. The propriety of the rulers of a country being competent to transact business themselves; to hear cases personally, to be better able to judge of the evidence of a witness; and, in short, to be accessible to the people, would appear to be sufficiently obvious. Yet in India, it is surprising to find that this is not at all considered necessary. The majority of the civil and military servants are here satisfied with employing an interpreter, or speaking an inferior dialect, with which they, in some degree, contrive to make the people understand their meaning.

One great means of gaining the respect of the natives is to speak their language with propriety, that is, without vulgarisms, and in the tone and idiom used by their own gentry. But we think differently, or rather it is the fashion to hold them in such contempt, that few will allow the natives to have the capacity even to form an opinion on anything beyond their daily wants, and still fewer will allow their opinions to have any influence on their own conduct. "What can a native know or think on the subject?" or some speech to the same effect, is the mode in which the question is commonly settled; often followed by an assertion, that the speaker knows "quite enough for any common purpose, and quite as much as he wishes to know." It is also the fashion (chiefly among military men) to ridicule Gilchrist, the civilians, and the interpreters of corps, as to their pretensions to a better knowledge of Hindostanee. It is asserted that many of them can hardly make a common native understand them: instances are quoted, and very pretty stories told, which, of course, are eagerly swallowed by the idle and the ignorant. Gilchrist may,

perhaps, have allowed his enthusiasm for the language to betray him occasionally into absurdities, and here and there it may happen that a young civilian fresh from college, or an interpreter who has just passed his examination, may be something of a pedant: yet, that a man who has studied, and has passed his examination in a language, should know more about it than one who cannot stand the test, is a self-evident proposition that it would be a waste of time to prove. Certain feelings of envy are at the bottom of this ridicule, combined with a sense of inferiority, which all the above assertions cannot disguise. There is little or no limit to the absurdities into which a man may be carried by a consciousness of ignorance which he is anxious to conceal, perhaps from himself. He may assert that he can make himself understood: very possibly: as for example, "Will you do me the favour to lend me that book?" "You make lend dat book me." Either of these expressions would certainly be understood by any Englishman; but what should we think of a foreigner in the rank of a gentleman, who spoke in the latter style, after having spent several years in England? Does not the imperfect English of a Frenchman or an Italian in England, immediately convey to our minds an idea of inferiority, and a disposition to ridicule? What is more common than to see representations on the stage, in which foreigners are made ridiculous, chiefly by their broken English. It may be imagined that the natives of this country have no perceptions akin to these; but those who are best acquainted with them are aware that their sense of ridicule is peculiarly keen, and that though their extreme command of countenance (to say nothing of their natural politeness in matters of this sort) enables them to preserve their gravity in our presence, they do not spare sarcasm or irony when the restraint is removed. That acute and accurate observer of men and manners, Bishop Heber, whose gifted eye saw deeper in his short survey of the country than many who have spent their lives in it, has remarked on this feature of the native character with his usual penetration.

Many will be surprised to hear the real opinion of the natives on this subject. They attribute all inability to speak the Hindostanee language with propriety, either to indifference or inca-

capacity. In every instance they say, "Either this man is so indifferent to our welfare that he deems it immaterial whether justice be properly administered or not, and will not therefore take the trouble to learn our language, or his abilities are insufficient to enable him to acquire it." (And it may be observed, as a proof of the truth of this opinion, that it would be difficult for a man to give any other reason for his ignorance of the language of those over whom he presides,—of course, supposing him to have been some time in India.) With such impressions, how is it possible, that the natives can respect those in authority over them who are in this predicament? On the other hand, their opinion of a man who speaks Hindostanee well is proportionably high: nor is this confined to the upper classes; the lower are quite shrewd enough to view the case in the same light. Such instances as the following may be considered exaggerated; but I have positively often witnessed them. Two or three Englishmen are out hunting or shooting; one of them who speaks broken Hindostanee, asks a peasant some questions relative to the sport: the native answers him in a careless way, perhaps without stopping his work; and sometimes without even looking up from it, after the first glance; omitting, at the same time, the respectful terms of speech. Should another of the party, who can speak in a gentlemanlike manner, address the peasant, in an instant the latter will rise up, or stop his work, make a salaam, and reply in the most respectful language. Were the native asked by any one to whom he could speak freely, why he made such a difference in addressing the two gentlemen, his answer would be something to the following effect: "Two gentlemen! Do you call the first a gentleman; if so, why did he not speak like one? The second evidently was so, by his language, and I answered him as such*." Is there anything extraordinary in this? Is it not very similar to our own feelings? In proportion to our tendency to ridicule foreigners who speak broken English, is not our admiration and respect for those among them who are well acquainted with our language? Do they not immediately rise in our estimation? and

* Here is one clue to the complaints so often made by the English of the disrespectful conduct of the natives.

is not the common remark, "This is a very intelligent man,—a man of education; he really speaks English almost as well as we do." Ideas are much the same in all countries on this point, though most nations, except the English, are too polite to express them in the presence of foreigners. Captain Basil Hall has alluded to the subject in his last work, (see *Fragments of Voyages and Travels*, &c.) In Ireland, a man possessing common tact who would learn the Erse language, might gain an unbounded influence over the people. I have heard from more than one traveller who has visited Turkey, that the insulting treatment so often charged upon the Turks, is only experienced in the capital or other mercantile towns, where the influx of Europeans of all descriptions, good and bad, is considerable; and that if any foreigner would make himself acquainted with the Turkish language, he might travel safely over most parts of the country, secure of good treatment and hospitality from all the chiefs and landed proprietors. It is, in fact, felt by every nation as a compliment paid to themselves when they meet with a foreigner who is conversant with their language.

It may probably be thought that I have dwelt too largely upon this point; that I have magnified its consequence, and exaggerated facts in illustration of the general ignorance of it in this country: my object has been to endeavour to call the attention of those in authority to a closer view and a deeper inquiry into the subject, the importance of which no one will deny; and I have been thus diffuse, in order to meet and anticipate counter assertions and accusations; but let the experiment be made, and let facts speak for themselves. Let any young civilian, just out of college, or perhaps, in some instances, from one to three years afterwards, be requested to converse with a native of the upper classes, either Hindoo or Moosulman. He will find the latter scarcely able to understand him (a mode of proof easily attained); and as to the army, can it be denied that although officers are sent out on command, and daily placed in situations of difficult and responsible trust; yet that, to the present moment, with the exception of the interpreters, Government have adopted no mode of ascertaining their fitness for such appointments, not even in

the case of adjutants. It is only within a very short period that the interpreters have been subject to an examination; yet, notwithstanding the certainty of obtaining that appointment* being held out as an inducement to acquire it, such is the scanty knowledge of Hindostanee among the military officers, that at this moment there are no less than nine regiments in which not a single subaltern is fit for the office. (See the Army List; and if the general orders of the last three years were examined, probably full thirty regiments would be found to have been, at different times in that period, marked with the same stigma.)

There has been lately some discussion on the propriety of introducing the English as the language of the courts of justice; a measure by no means to be desired, and the impolicy of which a very little consideration would be sufficient to prove. The great objection to the use of the Persian language is, that the mass of the people are unable to understand the proceedings of the courts, and are obliged to employ agents to transact the smallest business. This objection applies equally to the English language. How stands the case? The governors of this country amount to some hundreds, all, more or less, men of education; the governed are in the proportion of millions to hundreds; the majority poor and illiterate, and possessing neither leisure nor ability to acquire a foreign language. Yet, instead of obliging the few to learn the language of the many, it has been seriously proposed to attempt the contrary practice; I say attempt, because success in such an undertaking is out of the question; all history bears testimony to this; and indeed the idea is unworthy of a civilized people. Never had such an attempt a greater prospect of succeeding, than in the Norman conquest of England, where probably, first and last, the invaders equalled in numbers the conquered nation who survived the wars and tyranny to which they were subject, and where the connexion was preserved by the kings retaining their continental possessions; yet, after persisting for about two centuries, the project was found impracticable; was abandoned, and the language of the country

* Which gives a considerable increase of pay.

adopted; changed certainly by the introduction of many foreign words, but still, in its structure, essentially Saxon. The same has taken place in India. The Hindostanee has triumphed over the Persian, and retains the old Hindee construction, although it has borrowed many words from the conquerors; their descendants have been obliged to adopt it as their current language; and Persian is now as much a foreign tongue to them as French is to the English. What an extraordinary anomaly it is, that the English, instead of adopting the language of the country, should have chosen to conduct their official business in one of which both the governors and the governed are equally ignorant.

The substitution of English for Persian would certainly have this advantage, that one party at least, the governors, would understand their own proceedings, whereas at present* their knowledge of Persian is by no means sufficient to be a check on the conduct of the police and court officers. But with regard to the other party, the introduction of English would in no degree improve *their* chance of obtaining justice. The great objection to the measure is, that it would tend to destroy the medium of communication between the English and the natives which at present exists. Were English declared to be the official language, all those natives who are now induced by the prospect of employment to study Persian, would, of course, learn English in preference. In a short time, the class of natives from whom our servants are taken, would have acquired a smattering of English; and here the mischief would begin. The civil and military servants, being all Europeans, land in the country ignorant of the languages†. At present but few of the native servants in Cal-

* Whatever may be thought, inquiry would prove that the knowledge of Persian among the civilians is very limited. By dint of practice, they learn to understand the papers read to them, but there are probably not thirty who could read off hand, and translate, without mistakes, a police report; and not ten who could quickly write, without errors, the orders required in answer to it. If Government would

order the experiment to be made, the truth of this statement would be apparent.

† The very slight knowledge of the languages acquired at Haileybury and Addiscombe is scarcely worthy of consideration. At the former place it is, or at least was, the fashion to neglect the Hindostanee, and to study in preference the Persian, Bengalee, and even Sanscrit.

cutta speak English, and there is a prejudice against employing them, not altogether unfounded; for the greater part of them are men who have not been in respectable services, but have lived about what are called “punch-houses” (*i. e.* low public houses), and in attendance on people who only remain for short periods in India. Out of Calcutta, with the exception of King’s officers’ servants (who generally remain about the same regiments), scarcely any of the natives can either speak or understand English. Necessity, therefore, obliges us to learn something of Hindostanee: but were this necessity removed, and were the young men, on their arrival from England, to find servants speaking English, of a different class from the above, convenience, in the first instance, would induce them to employ them, and the chances are, that having become accustomed to their attendance, they would afterwards be unwilling to change. Then, indeed, would the evil consequences of the proposed plan become apparent. Neglect of the Hindostanee would be the natural result; we should be content with allowing our attendants to act as interpreters, and in the end should find ourselves almost entirely excluded from communication with the great body of the people. Under such a system, what their prospect would be of obtaining attention to their complaints, or redress for their wrongs, is sufficiently evident.

This might not be universally the case. Doubtless there would be some, whom a sense of duty towards those over whom they were placed, and a laudable desire to emancipate themselves from the situations of puppets in the hands of their dependents, would induce to acquire a knowledge of the language of the country. But these would certainly be few. It does not require much acquaintance with human nature to perceive that, generally speaking, necessity alone will induce men to undergo the fatigue of study; and, with regard to the particular subject under consideration, we may note what is really the fact respecting certain classes in India.

We need not go far for examples. The officers of his Majesty’s service furnish an instance at once. Looking upon their sojourn in this country as temporary, they do not think it

worth while to study the language; they employ servants who can speak English, and most of them return home with as little knowledge of India as if they had never been connected with it. Yet, to say nothing of the want of proper curiosity which this conduct evinces, when we consider that the residence of the King's officers here usually extends to ten, twenty, or thirty years, and that in a campaign they must often be employed on piquets and outposts, where it is of great importance to collect from the country people some information relative to the motions of an enemy, we might almost say that to acquire some colloquial knowledge of Hindostanee was a part of their duty. At Madras the Company's officers are equally ignorant. Many know nothing of the country languages, and very few can speak anything better than a vulgar *pâtois*, worse than the worst that is spoken in Bengal. In support of this assertion, the authority of Sir Thomas Munro may be quoted:

"It is well known," he observes, "however, that though many officers of the army are sufficiently acquainted with Hindostanee for carrying on their ordinary duties, very few of them have such a knowledge of it as would enable them to interpret to a court-martial, and it would therefore at most stations be difficult, if not impossible, to find a committee capable of deciding whether an officer was sufficiently versed in Hindostanee to be eligible to the office of interpreter. The knowledge which many of our native troops have of English, and Hindostanee not being the prevailing language of the peninsula, are perhaps the chief causes of the inferiority* of the Madras officers, generally, to those of Bengal, in the knowledge of Hindostanee: but, whatever may be the causes, the fact is certain."

Here is a tolerable picture of what the effects of the proposed plan would be. The causes are the same in both instances; those above mentioned, of having intercourse with those natives

* In the edition of Sir Thomas Munro's works from which the above quotation is made, the word "superiority" is used, but from the sense of the passage it is evidently an error of the press, which I have rectified. See *Minute on the Study of the Native Languages*, Nov. 7, 1823, vol. ii. p. 362. — *The Life of Sir Thomas Munro, &c.*, 2 vols. 8vo. 1830.

only who can speak English, and dislike to the trouble of study. Of course I do not mean to assert that this ignorance and indolence are universal. There are, no doubt, some individuals, both in the King's and Company's Madras service, who have had the good sense to pursue a different course. These, however, are few; and their example does not affect the truth of the statement as to the majority. It may be observed, that the Madras civilians are as good linguists as those of Bengal, because they are obliged to pass an examination.

But I must be allowed to say a few words on the subject of interpreters, and a proposed test for all officers. I allude to the first paragraph of the quotation from Sir Thomas Munro, and, however sorry to differ from such high authority, I cannot help expressing an opinion, that no officer is properly qualified for any military command whatever in the native army who could not perform the duties of an interpreter to a court-martial. I do not mean that every officer should be obliged to pass the examination now prescribed for interpreters, for much more is demanded than is necessary. In this instance, as in many others, Government have run from one extreme to the other: formerly officers were appointed to this situation from mere interest, and I could mention an instance of the interpretership of a corps being given to a man who had not been a year in India, and was quite ignorant of Hindostanee, although there were two or three very good linguists among the older subalterns. The impolicy and injustice of this state of things becoming apparent, an order was then issued, that, to obtain an interpretership, an officer must not only possess a competent knowledge of Hindostanee, but of Persian also. It would be difficult to decide what should be considered "a competent knowledge" of Persian, where the individual acquiring it was to communicate with men totally ignorant of that language. Fortunately the examining officers have hitherto been satisfied with as little as could be construed to be within the letter of the law; but the absurdity of the order is not the less, and has, no doubt, deterred many young officers from qualifying themselves for the office. What is the duty required of an interpreter to a court-martial? Simply to understand what five or six people say;

of whom one makes a complaint, another his defence, and the rest are witnesses; and to be able to question them on those points connected with the case which require further elucidation. This is no more than what every officer in the command of a troop or company has constantly to perform: the cases are, perhaps, trifling, compared with those brought before a court-martial, but they may be of considerable importance to the parties concerned: and if an officer be unable to do this, he would certainly not be competent to receive long and particular reports, to give complicated orders, and directions with reference to certain contingencies, &c., all of which must be constantly necessary in a campaign. In short, it is not going too far to say, that no officer is qualified for any military command in the native army of Bengal, who does not possess, at least, a good colloquial knowledge of Hindostanee; and he who has this is quite fit to interpret to a court-martial: in addition to which, it might be expedient to require some acquaintance with the Nagree character; for, as this must be learnt from books, it would give a man some knowledge of the better sort of Hindostanee in use among the upper classes, whereas the former would be learnt almost entirely from the lower. The latter, however, is not so absolutely necessary as the former. Were this to be done, we should hear no more instances of a Vellore mutiny remaining undiscovered, because an officer could not understand the native who attempted to disclose it to him.

The inconsistency between the rules and the practice of Government on this subject is another point which requires attention. Civilians are obliged to pass an examination in two languages, of which one must be Persian. Young men who choose the Bengalee for the second language, are often, as soon as they are emancipated from college, sent to the Upper Provinces, where that language is useless; while others who have passed in Hindostanee are as frequently employed in Bengal. To be appointed interpreters, officers must pass an examination, and it has been proposed to make the knowledge of Hindostanee a necessary qualification for any military staff appointment. Yet military officers, often very young men, are daily placed in political and civil situations, the former of which impose upon them duties of great difficulty and

delicacy, and the latter the exercise of the functions of judges, magistrates, and collectors of the revenue, without being subject to any test relative to their acquaintance with the languages of the courts and country.

Let us now examine the reasons why Persian was adopted as the language of the courts, and why it should not be abolished, and Hindostanee substituted for it. On the first point, the chief, and indeed only reason, seems to be, that we found it in established use on our acquisition of territory. If this be considered sufficient, no more need be said, for custom would sanction any evil that had at any time existed. There are but three reasons usually given for retaining it that I have been able to collect. 1st, That it is a more comprehensive and fixed language than the Hindostanee; 2d, That it is more quickly written; and, lastly, That the natives would not like the change.

The truth of the first reason may be questioned, but, let it be granted for argument's sake: in our courts of justice, nothing is written in Persian which has not been previously expressed in Hindostanee: of what use, then, is the superiority of the former language? The second reason would be of equal force relative to the introduction of the Persian language into the supreme court in Calcutta; for, as to its being quickly written, it is superior to the English, and would not be more foreign to the judges and suitors in that court than it is to the civilian and people of Hindostanee. And, with regard to the last reason, we must first understand what is meant by the term "the natives." In this case, it represents some one, two, or three native officers in each court, who have the ear of the civil functionary, and whose opinion being asked and received, stands for "the result of inquiries among the people." It is probable enough that the whole of the natives employed in our courts would be against the proposed change, for this reason, that they must either lose their situations, or take the trouble to learn a new mode of doing business; and many of the civil officers would most likely give their vote against it from the same cause.

But to the people at large, the advantage of substituting the Hindostanee for Persian in our courts of justice would be im-

mense. Not only would the whole proceedings of the courts be within their comprehension ; but the prospect of obtaining situations connected with them and the police, would be open to hundreds, nay, thousands, who are now excluded : nor would the governors fail to benefit by the change. By having to acquire only one language instead of two or three, they would find themselves much more competent to maintain free intercourse with the natives than at present, and this would be an additional benefit to the people.

In the event of this plan being adopted, there remains the question, whether the written character should be the Persian or the Nagree ? I should give the preference to the latter. First, for the same reason that I should wish to see the Hindostanee introduced, viz. that it is the character of the country ; and, secondly, besides that the Persian is a foreign character, it has not letters to express properly the pronunciation of the Hindostanee. It is objected that the Nagree character is too variable, that one native cannot read what another writes, and that even the same person is often unable to decypher his own writing a day or two after he has penned it. This may be true of the poor illiterate labouring class, whose parents cannot afford to keep them at school for above two or three years during their childhood ; but it is certainly not the case with the educated natives. The Nagree perhaps contains some variety in the forms of some of its letters, and different forms are used in different provinces : the Hindostanee language also varies in the dialects of different districts, but probably not more than English in the different counties among the working classes ; and it is chiefly among the poor that the former varies. Nevertheless, all over the civilized part of the Bengal presidency the Nagree character and the Hindostanee language are essentially the same, with the sole exception of Bengal Proper and Orissa, and even in these provinces there is scarcely a village in which many people would not be found who understood them ; and, to obviate difficulties, their own language might here be retained.

If Persian be necessary, how did the Hindoo government contrive to carry on business before its introduction ? How, at the present day, do the Mahratta, the Nipâl, and some other govern-

ments, succeed? and, finally, how are the affairs conducted in our own provinces of Kamoun and Gurhwall, where all police reports, orders, bonds, deeds, final decrees in civil cases,—in short, every part of the business, except roobekarees*, and sometimes the evidence of witnesses, are written in the Nagree character, and in the Hindostanee language? The reason of the two exceptions just mentioned is, that cases frequently occur which require reference to the neighbouring courts of the plains. To enable the proceedings to be understood in the latter, Persian writers are necessarily required in the hill courts, and being entertained, when there is a press of business they are employed to write some of the proceedings in their own court.

The difficulty of effecting the change would be very trifling. An educated man, who already possessed a colloquial knowledge of the Hindostanee, would find it an easy matter to acquire the Nagree character. Half an hour's application daily, for six months, would enable almost any civil officer to read and write it with nearly as much facility as he could English. But we need not run the risk of introducing the change too rapidly. Were Government, after due inquiry, to issue an order, that at the end of a year the proposed plan should take effect; and that all the native officers of the court who would learn the new mode should be retained in their situations: when the time arrived it would probably not be necessary to discharge a single individual, and the change would take place at once. To meet the difficulty of the variation in form of some of the Nagree letters in different districts, the most approved alphabet should be selected, and adopted in our courts: the result would be, that the court alphabet would soon be in general use all over the country, to the exclusion of all others. At first, as is incidental to the introduction of all new plans, there might, occasionally, be some little faults in the proceedings. The Persian idiom would make its way into many of the papers†, from the circumstance of the natives employed hav-

* Roobekaree is a statement of proceedings in any official case or trial, up to the time of its being written.

† This is the case at present in the only papers which are *ordered* to be written in Hindostanee, *i. e.* the con-

fessions of criminals. That such an order should be deemed necessary, is a tolerable proof of the inadequacy of the Persian to express the meaning of the criminal correctly, and this is the reason given for the order: whether

ing, all their lives, been accustomed to write Persian, and never having written their mother tongue; but this would soon wear off, and, in a short time, the work would go on smoothly.

Before I conclude this paper, I must offer a few observations on the expediency of those destined for India beginning to study the oriental languages in England, and of the different modes of acquiring them: and, notwithstanding the importance I attach to a proper acquaintance with those tongues, I think it would be better that the young men who come to this country should postpone the study of them until their arrival here. Two-fifths of the time spent at Haileybury College is devoted to the Eastern languages; yet the proficiency attained in them by the generality of the students during that period is small. It would tend much more to fit them for the high stations of trust and responsibility which they are destined to hold in India, were the whole of their time in England spent in the acquisition of what is called "general knowledge." In the oriental languages they would learn as much by three months' attentive study in this country as they do in the whole two years at Haileybury and Addiscombe. The most that is desirable before they land in India would be, just enough to enable them to give directions to their servants on their arrival.

On the much-argued point of beginning with Gilchrist's plan of reading the Eastern tongues in the Roman character, or of learning that of the language itself at once, I shall only remark, that a man who has not the opportunity of learning the pronunciation, or who only wishes to acquire colloquial knowledge, had much better adopt the former, for, by attending to Gilchrist's alphabet, he could scarcely avoid speaking correctly; and the time spent in learning the alphabet would be saved. Those who have the means of acquiring the pronunciation, and whose business requires them to read as well as to speak the languages, should, of course, begin at once with the oriental character.

May 20, 1832.

the fault lies in the Persian language, | our courts, the existence of the order
or in the insufficient knowledge of it | is a strong argument for substituting
possessed by the natives employed in | the Hindostanee altogether for Persian.

No. VI.

ON COLONIZATION.

FEW things have excited more surprise among intelligent foreigners who have considered the government of British India, than the impediments and objections hitherto advanced against colonization. Seeing the advantages derived by the mother-country, in all other instances, from the settlement of her children in foreign countries, they are at a loss to conjecture the reasons for a different course of policy in the case of a territory so extensive as this; and, indeed, so important an exception to the general line of conduct would appear to result from some very peculiar circumstances, either in the country itself, or the situation of its rulers with regard to it, more especially when it is found that, after so many years of dominion, no change has taken place in this respect, though the Government has, from time to time, been conducted by men of distinguished ability as statesmen and politicians, who would be supposed to have had ample opportunity to form a judgment upon the question, and resolve its doubts. Till within a very short period, however, little inquiry has really been made on the subject. Occupied chiefly with the extension of conquest, and the establishment of authority, the greater number of those who have been entrusted with the government of this country have had little leisure to attend to its internal state. The important military affairs which have followed each other in such rapid succession, and the political relations connected with them, have pressed on their attention, almost to the exclusion of all others: the present moment seems to be the only favourable opportunity hitherto afforded for considering the matter with calmness and impartiality; and the encouragement given to such inquiry, both by the present Governor-General and the home authorities, would justify any individual attempts to throw light upon it.

Indeed, it is from individual and personal investigation alone that accurate information can be obtained on the subject. The situation of a Governor-General, however advantageous for the

acquisition of a general view of the state of affairs, affords, as it has been already observed, little scope for an acquaintance with their operation in detail. His elevated station gives him but a "bird's eye" prospect, and he cannot descend from it, and, like Haroon al Raschid, wander about in disguise, and mix familiarly with his subjects. He is brought into immediate contact with few except the higher members of Government, and must, more or less, depend upon the information he receives from them for the opinion he is enabled to form. Our present Governor-General has, indeed, set the example of a wiser conduct on this point, and is said to listen to all who may be supposed worthy of attention; in particular to those who feel the effects of the English laws and system. It is hoped that the result will be productive of benefit to the country, and tend to increase the stability of the British rule.

Let us now inquire a little into the cause of the prohibition originally given to the settlement of Europeans in India, and examine the reasons produced in favour of a continuance of the system. It arose at first, undoubtedly, from an anxiety to prevent any infringement of the monopoly of trade enjoyed by the East India Company. That has been, however, for some years, laid open, and the reasons now advanced are,—1st, That the rich settlers would supplant the natives in the possession of the soil; 2d, That were the country overrun with the lower class of Europeans they would ill-treat the natives, and, from their irregular and disorderly habits, commit many crimes (in proof of which it is instanced, that, with all the assistance of military law and discipline, it is found impossible to prevent occasional acts of atrocity among our English soldiery); and, 3dly, That as soon as India was tolerably well peopled with English settlers, it would become independent of the mother-country.

On the first reason, it may be observed, that the new settlers could only obtain land either by fair purchase from willing sellers, or by buying the estates of defaulters sold by order of Government. In either case, it is difficult to discover any cause of complaint on the part of the original owners of the land against the purchasers, whatever they might have against Government

for selling their estates without sufficient cause, which was too often the case formerly. But, after all, the numbers of settlers who could obtain land would be very limited; for there would be found among the natives but a small number willing to part with their property, and those only from necessity. Now, if these could obtain a higher price for their lands from the English than from one of their own countrymen, they would derive a benefit instead of an injury. With regard to estates of defaulters, Government having of late become better informed, and their collectors a little more patient, few are now sold for defalcations of revenue.

On the second reason I might say, "Prove the premises, and I will allow the conclusion." But whence are these imaginary numbers of the lower class of English to come? The expenses of the long voyage from England are far beyond the means of emigrants in general; and the difficulty of procuring good sailors in India is so great, that few captains of ships would take men on board who were desirous only of working their passage out. Besides, for those who wished to emigrate from England, in either way, the United States, Canada, New South Wales, and Van Diemen's Land, offer so many greater advantages than India, that they would more generally be preferred. Occasionally, as at present, an individual might desert from some ship or regiment; but the same necessity which obliges him now to embark in some other ship, or enlist in some other corps, would still exist. He could scarcely gain a livelihood in the cities of Calcutta, Madras, or Bombay, the only places where he could remain undiscovered; and, were he to venture into the country, he would be traced and apprehended; no instance having yet been found, except in those towns, of an European deserter remaining concealed within the limits of the British territory.

The third and last reason remains to be considered. It is indeed probable that, in the course of time, India will emancipate itself from England. History gives us every reason to suppose that so large a colony would not remain an appendage to the mother-country when it was able to take care of itself. But whether this period, "the time when the British rule in India

must cease," will be hastened by the settlement of Europeans, is a different question. The probability is, that India will be independent of England long before that event could be produced by colonization; and that, so far from being a means of accelerating that catastrophe, it would rather retard it. We are little aware of the real state of feeling among the natives of this country. Our rule has hitherto been a system of keeping the governors totally aloof from the governed, and there is little community of intercourse between them. To use a comparison often made, the British government in India is like a house built over a mine of gunpowder. As long as no fire reaches the mine, the house is safe, and partial explosions in detached quarters may even happen without much injury. But let the spark fall,—and it may be done by accident or design; it may happen to-morrow or fifty years hence; there is no certainty,—the powder once ignited in its mass, and "*mole ruit suâ*." But there are other consequences which would ensue from colonization, whose operation would be more immediately felt by the existing directors of the Indian administration,—and it is the apprehension of these which forms the true reason of the strenuous opposition hitherto made against colonization.

These are, first, that the present oppressive system of government towards the natives would be exposed by the new settlers. The people of India are obliged to bear it, as they possess no means of averting it, or making their complaints known: but Englishmen would not submit so quietly: they would at least make themselves heard in England, where public opinion would demand an alteration in the system.

Secondly, That, before long, it would be found absolutely necessary to appoint residents in India to many situations from which they are now excluded: and this would diminish the patronage of the home authorities.

The generality of people in England possess but little acquaintance with India affairs; and many of those who, for their own benefit, are interested in preserving the present system, are men of talent and ability, whose names give a weight to their professed opinions on this subject which would not stand the

test of fair examination. Take, for instance, Mr. Robert Grant's "Expediency maintained of continuing the present India System." It is difficult to analyze the book, or to follow its argument; for, indeed, it contains little or none. The work is plausibly written, while the real question is slurred over and sunk in general observations. The only point on which the writer is specific is an unfortunate one. He states his opinion, that English settlers in India would embarrass the Government; forgetting that the natural inference must be the weakness and insufficiency of such a government. All this is easily discovered by the few acquainted with the subject; but Mr. Grant's name stands high, both on account of his own personal talents, and for his connexions with India affairs: so that with those who have not had leisure to study the question*, his authority is quoted, and his professed opinion adopted without inquiry.

I will now particularize a few of the points in which the settlement of Europeans in India would "embarrass the Government."

Should an Englishman be obliged to wait from two to three years before he could get a cause of even a trifling amount decided in the first court; to say nothing of the subsequent delays of sometimes four or five years more by appeals and difficulties in enforcing the decree, should he be so fortunate as to obtain one.

Or to wait for many days at the office of a magistrate or collector, before he could get a petition heard.

Should he receive the first intimation of a civil suit having been instituted against him, in an execution for the amount of the decree which had been issued.

Should his lands be over-assessed, because he would not or could not bribe the collector's native officers; and ultimately sold, should he be unable to obtain access to the collector.

* The apathy of our countrymen in England towards India and its affairs, is a subject of general complaint here - perhaps without sufficient reason. The wish to acquire general information with regard to it is strong and daily increasing; but the fact is, that to obtain any thing like a correct knowledge on the subject would require more time and study than can be devoted to it by those not immediately interested, not to mention the difficulty of bringing home to English ideas and associations the concerns of so distant a country in detail. Most people have occupations of far greater importance to themselves and those connected with them, to occupy their attention.

Were he obliged to pay a bonus of from ten to twenty-five *per cent.* from the amount of suits filed by him, to the judge's native officers, to ensure obtaining decrees on just demands.

Should a police officer, with several followers, coming on business to the village where the Englishman resided, and finding his house the best, take up his quarters in it for a day or two, obliging the owner to supply food gratis for the whole party

Should a civil or military officer encamp near the settler's village, and his servants cut down the trees planted about it, for forage and firewood, in order to extort money for refraining.

Should a civil or military officer send servants or soldiers into the village to seize twenty or thirty of the first inhabitants they met, to make use of them as beaters for game; and then proceed to force these very people to tread down their ripe fields of corn in search of the game; and, that amusement being over, oblige them to carry loads to the next stage without making them any remuneration.

Innumerable other cases of the same description might be mentioned. Some of these would not happen to the English settlers personally, because those to whom such oppressions are attributable would be afraid of two things; first, that the Englishman, being exasperated by such proceedings, would lose his temper, and take the law into his own hands; and, secondly, because the few English not in the service of Government are, generally speaking, in the rank of gentlemen (at least in the Upper Provinces), and more or less acquainted with the civil and military officers; but the instances above-mentioned occur almost daily with respect to the natives; and were the number of the English settlers considerable, their native dependents, customers, tradesmen, acquaintances, &c. could not escape. The English would bring these abuses to the notice of the Government authorities, and, if not redressed, would lay them before the public.

I do not intend by these remarks to bring a charge against the whole body of Government functionaries of willingly sanctioning, or even tolerating such oppressions. Though doubtless some are to blame, I believe the majority would be very glad to check

such abuses, for many of which, indeed, the system under which they act is alone accountable, and which they have no power to remedy. With the best intentions in the world, it would be impossible in some instances for individuals to give their attention to half the affairs which are brought before them; the great extent of the different districts produces such an overwhelming mass of business that some portion of it must be neglected, and innumerable causes of just complaint must be disregarded. Many unfortunate applicants for justice, especially those who reside at a distance from the courts, must be content to suffer in silence, and many more, after waiting days, and even months, about the courts, and spending considerable sums in petitions to the magistrates, and presents to the native officers, in a vain attempt to obtain an audience, return home in despair, a warning to others to desist from the like endeavours, and to submit patiently to their wrongs. Yet, though the existence of these evils is known and lamented by many, such is the aversion to change existing institutions, and such the disinclination to acknowledge any system to be wrong in which we are concerned, that abuses are allowed to go on without any efforts to remedy them; and not only so, but difficulties are advanced, and objections made, whenever the subject is brought forward with a view to improvement.

It is probable, that were the question of the expediency of colonization proposed to the Government servants in India, the greater number would give an opinion in the negative. In conversation it is usually opposed. The reason given is, that "the European settlers would be so troublesome;" and they instance the indigo-planters. Now this "troublesomeness" is nothing more than a dislike to submit to such oppressions as are above-described, either in their own persons, or in those of their dependants, and a tendency to make known their complaints to the constituted authorities; or, in failure of obtaining justice, to bring them before the public. Swift has said, "a man had rather do wrong than be told of it."

Most people, on their first arrival in India, are struck with the little progress that has been made in the general improve-

ment of the country, and with the few attempts that have been made to introduce many comforts and conveniencies which might be done at no great trouble or expense. The answer is the same in every case. No one of those who could do so has any permanent interest in the country; and, till this is the case, little change for the better can be expected. Colonization is not indeed a grand panacea, which will of itself at once cure all evils, and introduce every improvement. It is no more than the draining of the marsh, in the bed of which corn will not spring up spontaneously; but until the marsh be drained, no cultivation can be attempted. The English system pursued in India, in conjunction with some of the native customs, has had the tendency to destroy almost entirely the middle class, and particularly the native landed proprietors of any wealth or influence, who formed the connecting link between the very high and the very low. The English have taken the place of the former; and between them and the latter there is not much more sympathy or connexion than exists between the owners of estates and their slaves in the West Indies. Within the last few months Government has made the first attempt to change so lamentable a state of things, by placing some natives in judicial situations of real trust and importance; but years must elapse, and many ulterior measures be pursued, before a new middle class of natives can arise. In the meantime, English settlers of wealth and respectability would be an incalculable acquisition and benefit, both to the country and the Government. By their acquaintance, and even connexions, with the natives, they would unite the chain which is now broken, and take a place in society equivalent to that of country gentlemen in England.

As justices of the peace, they would enable the natives to obtain much more redress than can now be the case; and their assistance and co-operation would enable Government to reduce a considerable portion of the expensive courts and police establishments which are now found necessary. Such a body of settlers, having everything to lose, and nothing to gain, by the subversion of the British power, would, in the event of any disturbance or insurrection, exert all their influence, and induce

their native dependants and connexions to do the same, in support of Government; whereas, so different is the feeling of the natives towards the British authority, that when a disturbance arises, those who do not take part in it stand aloof, and will rarely give any assistance to the Government. To so great a height is this spirit carried, that it is found extremely difficult to induce the people to assist the police in preventing robberies, although they themselves would be chiefly benefited by it.

To the objection that the settlers would oppress the natives, and thereby bring odium on the Government under which it happened, I must repeat, that the only inference from such a supposition is the weakness of the Government. But the very reverse of this would be found to be the case; in proof of which we have only to examine the estimation in which the English merchants and indigo-planters are held by the natives. I speak chiefly of the Upper Provinces. Few of the Government servants have had sufficient intercourse with the people to enable them to perceive this; and among these, self-love, and a sense of their own importance would operate to throw discredit on the fact; but I do assert, most positively, that, as a class, of all the English, the merchants are those most liked and respected by the natives.

The reason is plain. In order to insure the prosperity of their concerns, they are obliged to study the native character, to treat the people with consideration and civility, and pay some regard to their feelings and prejudices. The natural result of such conduct is, that they are met with correspondent dispositions, and that they possess an influence among the people far beyond any that the officers of Government have, generally speaking, been able to obtain.

The apprehension, therefore, of the English merchants being an annoyance to the natives seems quite unfounded: on the contrary, their residence in country stations has, in various ways, proved of the greatest benefit to those around them; while among the civil officers, those who would condescend to listen to their representations, and can bear to be told of the existence of evils or injustice under their superintendence, have often found them

most valuable assistants. Many instances might be mentioned in support of these assertions. In the beginning of the present century gang-robbery, in many parts of Bengal, had risen to such an alarming height, that extraordinary measures were found necessary to repress it; and Government, finding their own officers unable to do so, were obliged to employ several indigo-planters as magistrates, whose superior acquaintance with, and influence among, the natives, rendered them of the greatest service*. On the occurrence of the late disturbance at Baraset, which took place at no great distance from the residence of the magistrate, the intelligence of it reached him by the following channel:—an indigo-planter on the spot wrote to his agents in Calcutta; they informed the Government, by whom it was communicated to the commissioner of the division, and by him to the magistrate.

The existence of such a state of things does not say much for the internal administration of affairs in India. Yet it is no more than must be expected from the system of keeping aloof from the people which has been adopted by the English functionaries; and clearly demonstrates the superior influence and information obtained by a more free intercourse. As long as everything is quiet, orders are obeyed, and matters appear to go on smoothly; but the moment an emergency occurs, the absence of all real influence on the part of the civil officers is strongly apparent, and the most vigorous, and even violent, measures are often necessary, to prevent the whole fabric of society from falling to ruin.

The superior influence of the English merchants is not less apparent in points of minor importance. The difficulty in procuring carriage when travelling, workmen, labourers, &c. without the assistance of the police, is a notorious topic of complaint by most of the civil and military, particularly by the latter. Yet the merchants experience no such difficulty: they do not require the aid of the police to seize the people by force; but can, at any time, procure what they require, as soon as their wants are known. The servants and attendants, also, of the merchants are decidedly

* Mr. Blacquiere, Mr. Peter Andrews, and others.

of a more respectable description than those in the employ of any other class of English.

Let a merchant and a civilian revisit a district in which they had resided a considerable time, a couple of years after they had quitted it; the former will be greeted by people of all classes, who will come to see him, ask after himself, his family, and his concerns, and evidently show an interest in him and them,—the latter will only be recognised by some of the court or police officers, and a few individuals who have had particular business in the court. These will attend to make their formal respects, present their nuzzur*, and retire; and this chiefly under the idea that he may be re-appointed to the district, or have an influence over it in some superior capacity; but there will be very little of the cordiality with which the other was welcomed. There is no rule without an exception; but, generally speaking, this would certainly be the case.

I once knew an instance of a civilian of some standing, who, when marching on a tour, made a curious experiment. As usually happens, his rank was known from his servants, and experienced the usual reception; the police at the different stations were in attendance to make their bows, and procure anything he might require. On coming to a certain district, in which several indigo-planters resided, he explained to his servants that he had a particular reason for doing so, and desired them to say when asked, that he was a merchant going to his factory. Although it could hardly have been expected, the secret was kept for two or three marches; and the result was, that during the time of his *incog.* as a merchant, as he passed along he was greeted by the peasantry and farmers: they all momentarily stopped their work, and made their *salaam*. When his real situation was again known, he met with the same reception that he experienced at first.

In conclusion, let me observe, that should the restriction to colonization be abolished, little apprehension need be entertained of the country being overrun with English settlers. Poor ones are not wanted; nor could they easily find their way to India.

* Nuzzur, an offering of money, shawls, &c. presented by an inferior to a superior.

An influx of men of capital and enterprise would cause the greatest benefit to the community and the Government ; but for this class, there are so much brighter prospects in the countries before-mentioned than any India holds out, that it is not probable that many would try their fortune here. At first, perhaps, a considerable number might be tempted to do so; for many in England still retain the absurd and extravagant old notions of Indian wealth, and imagine that they have only to land in India, and the road to fortune is sure; but, after a short time, it is probable that the settlers would chiefly be old civil and military officers, who had outlived all their near relations at home, and it is plain that the number of these must be very small. At a future time I may enter into detail on this subject. One thing would be indispensable, viz. the abolition of two separate jurisdictions, and of the anomaly of having one court for the natives, and another, at a distance of from a hundred to a thousand miles, for the English settler. The Supreme Court should be restricted from having any jurisdiction whatever beyond Calcutta. Its operation, as called into play by dishonest men, has already tended greatly to diminish the confidence formerly existing between the natives and the English merchants in the provinces. When the latter are increased in numbers, and have become landholders also, if the anomalous double jurisdiction remain as at present, the unjust and disgraceful scenes which occurred in Warren Hastings's time, must, unavoidably, be repeated.

June 4, 1832.

No. VII.

ON BRIBERY AND CORRUPTION AMONG THE NATIVES IN AUTHORITY.

IN discussing the character of the natives of India, few subjects have been dwelt upon more frequently, or in stronger terms of reprobation, than their alleged universal tendency to bribery and corruption. Friends, as well as foes, have borne testimony to the

prevalence of this disposition; and, as a general feature, it is to be feared the representation given is but too correct. Deeply as the existence of this great evil is to be lamented, the effects of which are felt by all classes, I cannot help thinking that the language generally used, both in writing and conversation, relative to it, has exhibited more zeal than just discrimination; and that, in our great anxiety to express our horror of this vice, we have been led to throw a greater odium upon this nation than it deserves. Were we to inquire, we should probably find that among the English, both at home and abroad, many customs and practices exist, which, if brought to the notice of a skilful enemy, might lead him to retort many a charge which we should find some difficulty to repel.

Is, then, bribery unknown in England, or among the English in any other part of the world? Among inferior officers, will not a bribe of a few shillings to a watchman or constable often procure the release of a prisoner? Will not the same to a custom-house officer enable the giver to smuggle goods of considerable value? Again, is there no other description of bribery but when money is given? Were a country gentleman to offer his representative in Parliament a couple of hundred pounds to procure a commission in the army for his son, or were the county member to offer the former a sum of money for his vote and interest at an election, each would probably indignantly reject the proposal, and think himself very honest in doing so. Yet, by coming to a proper understanding, without any mention of money, the vote and interest are given, and the commission is obtained. Might not instances be found in some of our colonies, of a present of curiosities to the governor's lady being the means of procuring a staff-appointment for the person making the present? And is not all this as much bribery as if the value in money were given? But enough: I shall only observe, that one great reason that the English, in general, entertain so bad an opinion of the natives of India is, that all the Company's servants come to this country at so early an age, that they had little or no opportunity of forming any correct judgment of human nature; and that while very young men, they are, in India, placed in situations which bring

them in contact with few but the worst characters of the country. This gives a bias to their opinions which they are afterwards not always able to overcome, it being found very difficult to eradicate early impressions.

But to return to our subject. Let us first examine the causes of the great extent of corruption which exists among the natives in authority; and then let us endeavour to discover some remedy for the evil.

The causes given are very various. Some at once cut the Gordian knot, and assert that it is to be attributed to the innate evil disposition of the natives, who prefer a crooked to a straight course; and that, consequently, all efforts to check the evil are useless. The use of Persian as the language of the courts—the smallness of the salaries of those offices which are open to the natives—the supineness of some of the English functionaries—the ignorance of the languages and customs of the country on the part of others—the habit adopted by most of the English of keeping aloof from the people—and the extent of the districts, and consequent overwhelming mass of business (which is so great, that some part must be neglected,) devolving on the civil officers,—have each been, by different people, considered as the causes of the evil.

It is doubtful how much truth there may be in the first-mentioned cause; but it is probable that all the others have each, more or less, its share in producing the evil, of which the last cause is, as far as I am able to judge, by far the strongest.

There are, in India (and perhaps elsewhere), two distinct species of bribery. *First*, where a bribe is given plainly for a specific purpose;—this again may be subdivided into cases where bribes are given to effect an evil intent; and where they are given to ensure success to a just cause, or to procure the speedy decision of causes, especially those in which the parties and their witnesses are detained in attendance, to their great detriment. It is probable that the sums spent in the latter way greatly exceed those disbursed with a view to cause a direct injury to another. *Secondly*, small presents made occasionally to people in authority, without any particular object in view, but merely to secure their

general good-will. The former class might be, ere long, by a proper system of administering justice, in a great measure, if not entirely prevented: the latter is, perhaps, too much engrafted on the habits and customs of the people to be checked quite so easily; but on the cessation of the former, this would be also gradually discontinued.

It is probable that where much bribery exists, the rulers, or the system in force, can hardly be free from blame. For what purpose do people give bribes? The answer is to be found in the different descriptions of bribery and presents just enumerated. Now, where an individual can, by means of a bribe, obtain the power of doing an injury to another, or where he cannot obtain the decision in his favour of a just cause without being subject to illegal extortions,—how can it be supposed that the constituted authorities, or the system of government, under which such practices exist, fulfil the duties which the people have a right to expect from them?

Let us now enter into some explanation on the different causes given for the great extent of bribery and extortion which exists. The first mentioned is rather a curious one; for, however agreeable the custom may be to the receivers, we can hardly suppose that it is equally so to the givers, at least in those cases where the object is to ensure a just and speedy decision of an equitable claim: and I cannot help thinking, that in all such, the applicants would willingly keep their money, provided they could obtain justice without bribing the subordinate officers, who prevent a free access to those who, were it in their power, would willingly perform their duty.

On the second cause, “The Use of Persian in our Courts,” I have already said enough (see No. V. of this series). It seems pretty obvious, that the adoption of a language not understood by any of the parties concerned must, if it do not create any evil, at least tend to increase that which may exist in the system of government*. The Roman Catholic priests have been accused

* In the paper alluded to, proposing to substitute Hindostanee and the Nagree character for the Persian language, I omitted an additional refutation of one of the objections, viz. that “one native can scarcely read what another writes in Nagree,” &c. I denied that this was the case with the

of performing their religious rites in Latin, with a view to keep the people in ignorance; and it is generally allowed, that from this, joined to other methods adopted for the same end, the desired effect has been produced. May it not be imagined, that where a foreign language is adopted in the courts of justice in any country, the people must be, in a great measure, excluded from a knowledge of the proceedings, and the mode of conducting business in those courts?

The third cause, the smallness of the salaries of those offices which are open to natives of the country, has been a very efficient one in promoting the evil complained of. The amount of their pay is generally a mere pittance. Ten to thirty* rupees per month is, with the exception of the *surishtchdar*†, who receives fifty, the usual amount in the judge's, magistrate's, and collector's offices. In the commissioners' and appeal courts it is something higher; and the *tuhseeldars*, or native deputy collectors, in some few instances receive as much as two hundred and fifty. Yet the whole of these people are required to maintain a respectable appearance, and all but the lowest ought to be able to keep (considering the estimation in which such matters are held by the people at large,) some conveyance to attend office. The cheapest procurable would absorb the whole salary of many of the situations. The *thanadars*, or district police-officers, receive from fifteen to thirty rupees per month; some few, under the name of *kotwall*, a little more; the police-writers and *jemadars*‡ receive from six to ten rupees per month. The size of each police division in the populous parts§ of India would, perhaps, average from ten to twelve miles square, or even more (in the wild parts

educated part of the community; and I might have instanced, what must be familiar to any one who had ever transacted business in Bengal Proper, viz. the facility and rapidity with which Bengalee is both written and read by the natives. But the Nagree character is of the same description, and certainly as easily written and deciphered. It may, therefore, be inferred, that were equal application bestowed in learning the latter, the same results would follow.

* On an average, a certain number of rupees per month, may be considered equivalent to an equal number of pounds sterling per annum; but the exchange varies a little.

† The head native officer of the court.

‡ A police-serjeant.

§ Alluding to the Upper Provinces, where the people require more efficient control: in Bengal Proper, *the districts are larger, and the strength of the police is less.*

much more), of which the police station is not always in the centre. To enable a thanadar to do his duty properly, it is indispensably requisite that he should keep one, or even two good horses,—in some places three would not be too many; and the jemadar ought to be able to keep a good horse, or at least a stout pony. Their whole pay is not sufficient for this; what have they left to support their families, and keep up a respectable appearance? The fact is, that, were there no other means of making money, the salary alone would be no object, and would scarcely procure us the services of a single one of the numerous applicants for a vacant situation in the courts and police. I have met with many natives employed, who, in private conversation, have been candid enough to avow this; adding, that so long as they did not use their authority for a positively bad purpose, they could not see any harm in taking presents, whether given merely to secure their general good-will, or as a sort of reward for having done what was, in reality, no more than their duty. I have heard them make an observation in which there is a plausible appearance of truth, viz. that as the English functionaries must be very well aware of the state of the case, and of the insufficiency of their salaries to support their expenses, they thought it very hard that this should be thought a crime, and be visited by punishment when discovered. I have no intentions of defending this system; but we cannot expect (as Swift says) “every virtue for twenty pounds a-year.” It would be well, indeed, if the evil went no further than what I have mentioned; but, unfortunately, the step from taking a present as a reward for having done one’s duty, is but a short one to that of stretching one’s duty a little in consideration of a larger present. And to men accustomed to this sort of proceeding, the offer of a still greater bribe to act contrary to their duty, becomes a temptation too strong to be resisted. Tytler, who, some years ago, wrote a book containing some very excellent remarks on Indian affairs, observes, that “it is idle to think of making the native officers honest by raising their salaries:” an assertion which a little thought would probably have induced him to rectify. In one view of the case he is certainly correct: a rascal who has spent his whole life in extor-

tion and corruption, will certainly not become suddenly an honest man, because his salary has been raised; but even a person of this description would be rendered more cautious. As long as the pay is such a mere pittance as of itself can offer no inducement to take the situation, he grasps at every thing, great or small; but if the pay were high enough to be of consequence, he would refrain from many acts of extortion, where the profit expected was small, and the risk of detection great: and even this would be something gained.

At present, with few exceptions, the pay of the situations open to natives is so extremely low, that no really honest man would accept employment; and those who do, even were they naturally disinclined to corrupt practices, are driven by necessity to have recourse to dishonest means to procure a sufficiency for the maintenance of themselves and their families. But if the salaries were on a more liberal scale, a more respectable class of people would be induced to come forward,—people of a higher rank in life, who had a character to preserve; and it may be presumed, that from such men better behaviour may be expected.

With all our boast of superiority in education and morals, what was the state of things among the civilians fifty or sixty years since? Corruption and bribery were notorious; and how was this checked? Simply by giving liberal salaries, which made the existing race more cautious, and induced men of a higher order to enter the Company's service. The consequence has been, that, although there is, perhaps, no considerable body of men in which some unworthy members do not exist, yet, upon the whole, a corrupt civilian is now as rare as an honest one was in those days.

The fourth and fifth causes, viz. the supineness of some of the English civil officers, and the ignorance of the language and customs of the country on the part of others, may be touched upon together; for the former is very often, where it exists, the effect of the latter. Those who have witnessed the labours which some of the civil servants really undergo, will allow that, generally speaking, few men could work harder, and that they do as much as it is possible for men to do. Nevertheless, there are, undoubtedly, others, who, from a natural indolence of disposition, or from

ignorance of the language and customs of the country, leave too much in the hands of their native officers; and where this is the case, it must, under the present system, be productive of many abuses. The sixth cause, doubtless, contributes to the increase of the evil. Until something like free communication is allowed by the rulers to those over whom they are placed, it is impossible for the former, by receiving only official reports, to be at all aware of what is going on, even immediately around them. But this subject will bear discussion to an extent which the limits of this paper will not allow.

I now come to the last cause, in my opinion by far the strongest, of the existence of the corruption so much deplored,—the extent of the districts, and the impossibility of attending to the enormous mass of business thereby produced. Almost all the districts are so large, and the number of applicants for justice so great, that it is utterly impossible that all can obtain a hearing. None receive a positive denial; but some return home when their money and patience are exhausted, and their cases, when called for in their absence, are consigned to the record office; others submit to injury rather than complain; and others, again, are frightened away by the native officers of the courts, or by natives of wealth and influence, who contrive to find out the subject of their complaint, particularly if it should be in any way likely to implicate any of their friends; and in this manner the business of the magistrate and collector is shuffled through, so as not to exhibit any appearance of arrears in the periodical forms. The civil business, in the mean time, is allowed to accumulate almost without limit; and, although reports on the causes of such delay are constantly called for, the only effect is an additional waste of time and paper in answering them; the reply being to this effect, “Pressure of criminal and miscellaneous business renders it impossible to do more,” which passes current without further inquiry, because the superior courts well know it to be the truth. In consequence of this immense pressure of business, so much of the detail must necessarily be left in the hands of the native subordinates, who are driven by their low pay to dishonest prac-

tices, that it must cease to be a matter of astonishment that oppressions and exactions are of daily occurrence.

Having endeavoured to discover the causes of the evil so justly complained of, let us now attempt to devise some remedy. Unless something be done, the natives will be confirmed in the idea already very generally entertained by them, that the English functionaries receive their share of what is extorted by their native subordinates. This will probably be doubted by those who only have communication with their servants and dependants; for these would, in the first place, be slow to inform their masters of anything so unpalatable,—besides which, they are sufficiently acquainted with our habits to be perfectly aware that there is but a limited ground for such an imputation: but it is to be feared, that such an opinion is too general among the native community at large, and they give a very plausible reason for its adoption. Being unable to investigate and understand the real causes of so much bribery, all delay or difficulty in obtaining justice is attributed by them to the unwillingness of their rulers to hear the complaints; and they naturally enough say, that, “The magistrate or collector must know it; if they do not share, why do they not put a stop to the evil? it would be very easy to do so;” and so it would be to a person inclined to do his duty, provided his business were moderate enough to allow of it; but under the present system, there is little hope of improvement.

The remedies to be adopted are not very complex. First and foremost, let the civil officers have business sufficiently moderate to enable them fairly to hear it all and leave no arrears: for this purpose the districts must be smaller than they are at present. The expense of making new districts under the present system will be objected to. Then take another plan,—that of appointing some natives or English residents as justices of the peace, and joint-magistrates in the distant parts of the districts; and invest the *tuhseeldars** with the power to decide small matters at once themselves. The expense of this would not be great, and would probably be compensated by the great diminution of the establish-

* Native land-revenue officers.

ment of our courts which would then be effected. The magistrates and collectors would then have little of what is called "office work," and would be able to move about their district, with a few native officers, and completely superintend the proceedings of the others.

The adoption of a language which should be a common medium of communication between the governors and the governed, and our making ourselves well acquainted with the customs of the people, would naturally produce an increase of intercourse and good feeling, which would tend materially to improve our knowledge of the concerns of the country, and, of course, enable us to check many abuses which now exist*.

There was once a district which, under one magistrate, Mr. A., was notorious for the bribery of the court native officers, and the almost impossibility of the suitors obtaining justice. Mr. A. was removed; and under his successor, Mr B., the same court and officers became almost as famous for the purity and uprightness of their dealings. Being acquainted with one of the head men—(the natives, let me observe, are free enough in their communications with their acquaintance, even with Englishmen who are not in "the service" or in office,)—I one day asked him if the above report were true, and, if so, what could be the reason of the sudden change? He answered, "It is perfectly correct, and the change I will explain in a very few words. Under Mr. A., business was much in arrears. He did little himself, but left it to his officers of the court. The suitors were days, and even weeks, before they could get their petitions heard; even in those cases sent in by the police, the plaintiffs and witnesses were often kept some days while the head man took down the evidence and then brought them to the magistrate to read and pass orders. Consequently the poor people were running first to one native officer, then to another, whom they thought likely to have influence with the magistrate, offering money to procure a speedy decision of

* I have often heard a native in conversation, describing different transactions, observe in answer to some remark of mine, "Oh, sir! the English gentlemen know nothing of all this, but such things cannot be concealed from the native public." An observation which must be rather mortifying to the civil officers.

their cause, and their dismissal; even the chuprassies* came in for their shares of extorted fees. Well, the new magistrate came; he was indefatigable in business. Every day cleared off every petition and cause that was pending; and himself, after examining a suitor or witness, always told him, ‘You may now go home,’ or ‘You must remain here a day or two till such a witness arrives,’ as the case might be. The people saw that no unnecessary delay took place, and that they might depend on the magistrate’s despatching their business for them. For what then should they trouble the native officers, or offer them bribes? The whole system was changed at once.” And this is the true secret. If the English functionaries would keep their courts clear of arrears, listen to complaints personally, and practically prove to the people that justice is to be obtained without bribery, and that bribery will not procure injustice, the evil will very soon be checked; for, however bad the native disposition may be, the people will not pay for justice when they find it is to be obtained free of cost. The district above alluded to was so small that the magistrate was able to do his duty. In most of the provinces (and it can hardly be repeated too often,) it is quite impossible for the business to be properly attended to. In proof of this, it may be asserted, that the bribing system is, by no means, confined to the natives. English merchants, who may be supposed to be averse to it both from principle and economy, are obliged to adopt it, from the difficulty of obtaining justice otherwise. I could mention one who was obliged to make a bargain with the moonsiff†, near his factory, to pay the latter a *per centage* on all causes in which the merchant was a party, to ensure a speedy decision; and I could name half-a-dozen, in another district, who were forced to enter into the same compact with the court officers of the judge. On my asking them why they did not bring this to the notice of the respective judges, the reply of each was much the same,—“To what purpose? The expense of proving the complaint is great, and the chance of success is small; and,

* A sort of court runner, or constable.

† Moonsiff, a judge of a minor district court for deciding causes of small amount.

whether it were proved or not, I should procure myself the ill-will of a host of people who have it in their power to do me considerable underhand injury; besides, if I did prove a case, it would do nothing towards striking at the root of the evil, which can never be cured until a sufficient number of judges are appointed to hear all causes fairly without delay. On the whole, I should do myself more harm than good, and am content to let bad alone from the dread of making it worse."

All the attempts that have hitherto been made to check bribery in India have been upon a wrong principle,—that of punishment on discovery: whereas the only mode is to try that of prevention. It may be inferred generally, that where the punishments are great, the police of a country is bad, and the chance of detecting crime small. Legislators have too often neglected this axiom; and on perceiving the increase of crime, have enacted higher punishments, and have been surprised to find it ineffectual to prevent it*; forgetting that they took no pains to improve the chances of detection, while the dread of severe punishment rendered the evil-doers more vigilant in their precautions to escape it. Bribery is, perhaps, more difficult to detect than any other crime. In the instance just described as occurring among the officers of the courts, there is scarcely a chance of discovery; for people are not so simple as to receive the bribe before witnesses, and there are seldom any concomitant circumstances which would lead to circumstantial proof. With regard to the police-officers, however, it is occasionally practicable. For instance, it may be proved that, a man against whom the evidence was sufficient to bring him before the magistrate was released, or that an affray or robbery of which the police-officer had been duly informed was not reported to the magistrate, all which would be very good circumstantial proof in corroboration of a direct charge of bribery; for it is hardly to be supposed that a man would run the risk of punishment when he gained nothing by it. In the same sort of way a charge may be brought home to a revenue-officer: but, on the whole, under the present system, the chances of discovery

* See some very good remarks on this subject by Mill, and by Colquhoun in his "Police of the Metropolis," and "Thames Police."

and proof are so small, and the ill-will gained by bringing it forward so great, that few individuals are hardy enough to attempt it. They have nothing to gain by doing so, for the regulations do not authorize the amount of the bribe to be returned to the person from whom it has been extorted; when it does take place, it is usually by one who is secretly supported by some rival functionary, or when the informer is in an unguarded moment of passion; and I have seldom known a native who brought forward a charge of the sort who had not ample reason to repent it afterwards.

The consideration of all this, joined to some other circumstances, causes an unwillingness in many of the civil officers to entertain charges of bribery against the native officers. Young men who have not been long in office, are roused into virtuous indignation, and are very keen to discover and punish those guilty of the offence: but I have heard more than one experienced person, who knew a little more of the real state of things, say much to this effect: "If the charge be proved, what real good will follow? If I fine the delinquent, it will either be the signal for several other complaints to be brought against him, some true, some false; or he will redouble his extortions to reimburse himself the amount of his fine. If I discharge him, his successor will do just the same. Therefore, although I would not refuse to investigate a charge of bribery openly brought forward, provided a native officer is generally active and efficient in his duty, I by no means search out for complaints against him of this description: indeed, were it a small matter, I should rather discourage any being made; for, by discharging him, I should get another who would be less addicted to bribery, but I might not be able to procure so efficient a person in other respects." This cannot be defended on the score of morality; but practically it is, perhaps, the most expedient course to pursue. The system must be altered before any real reformation can be expected.

The means adopted by some individual civil functionaries to prevent bribery are sometimes extremely ludicrous. I could mention one who published a proclamation, that if any person were detected in giving a bribe, he should be fined double the

amount of what he had paid. This indignant person forgot to perform his part, and practically prove (which the small size of his district and the lightness of his business rendered perfectly feasible,) to the people that justice was to be obtained without bribery; and as to the real effect of his proclamation, he might as well have published that his native officers were fully authorized to receive bribes.

At a future time I may have opportunity to enter into a detail of the many cases in which natives employed in courts of justice, revenue, and police, are enabled to gain money. At present I shall conclude with a few remarks on the system of making, from time to time, small presents to those in authority, to secure their general good-will. This practice is too much interwoven with the ancient customs of the people to be checked so speedily as direct bribery; and, indeed, it does not produce nearly so much practical evil as might be supposed. Among all oriental nations it has for ages past been an established custom, for an inferior not to supplicate a superior without presenting an offering, and for a person visiting an equal to exchange a present. The refusal to accept what is offered is, in the former case, a proof that the supplicant has incurred the displeasure of his superior, and in the latter, is as great an insult as among us it would be for one gentleman to refuse to take wine with another. It cannot, however, be denied that the custom has led to much abuse, and in many cases it would be difficult to draw the line between a present and a bribe. The truth is, that the natives in authority in our offices have so much power, and so many modes, direct or indirect, of injuring those subject to their control, that the latter find it expedient to conciliate their good offices in any shape. Nor is this confined to the natives alone. The same necessity that compels the English merchants to have recourse to direct bribery, obliges them to comply with this practice also; many of these, from time to time, make small presents to the court, police, and revenue officers, particularly to the two latter, to ward off the annoyance and injury which they have the power to inflict. I even knew a magistrate (Mr. C) who adopted the same plan, under the following circumstances. His district was infested by

thieves, whose homes were in the neighbouring province, to which they retired with their booty after committing a robbery. To the court of the latter he was continually sending proceedings requesting the apprehension of those against whom he had obtained proofs; by whom orders to that effect were issued; but to no effect; as the police on the borders, in consideration of the bribes they received, constantly reported that those they were ordered to apprehend had absconded, and were not to be found. Finding complaints useless, Mr. C. took the opportunity of a march round his district to cross the boundary, and visit the different border police stations of the adjoining province. Of course the police-officers attended to pay their respects. Mr. C. received them civilly; spoke kindly to them, lamented their bad success in apprehending the thieves, without attributing any blame to them; hoped they would be more fortunate in future, and begged as a favour they would do their utmost. In addition to this, he presented one with a sword, another with a dagger, &c. and hinted at a reward being given for every thief apprehended. They were so delighted with this conduct, and so stimulated by the hope of a reward, that afterwards it was very rarely that an offender was reported not to be found.

The truth of this I may prove at some future time by giving a name for reference (it is almost needless to say that the letters A. B. C. are taken at random); and what a picture does it present, that a magistrate should be obliged to have recourse to such means to induce the police to perform their duty, and to protect those under his control from robbery and murder! Can it be a matter of surprise, therefore, that the poor natives are obliged to give bribes and presents in order to obtain justice?

The late order against the receipt of presents is, I think, a very proper one, and will, doubtless, have some good effect; for, although the English officers merely touched instead of receiving the offering, it was, on the exit of the native, seized by the servants and dependants. I could mention several civilians who had long before prohibited the presentation of offerings and presents to themselves; and now that a Government-order has been issued to that effect, custom will reconcile the natives to the

refusal, and they will cease to be annoyed at it, particularly if, as was done by those just alluded to, it be accompanied by a few civil words of explanation ; and the rising generation will almost forget that such a custom ever existed. If this be followed up by practical proof that justice is to be obtained freely, the whole system of bribery and making presents will ere long disappear.

July 21, 1832.

No. VIII.

ON THE UNION OF THE OFFICES OF COLLECTOR AND MAGISTRATE.

THIS measure of Government has given rise to considerable discussion, and is praised or censured according to the views of the respective parties. Like many other cases, there is much to be said on both sides ; and I propose briefly to sum up the *pros* and *cons* on the subject.

Those who are in favour of the measure estimate its advantages as follows :—First, that a collector is brought into contact with the better classes of the people, and is therefore likely to entertain towards them more kindly feelings than a magistrate, who sees only the worst side of human nature, in the shape of rogues and criminals ; while even the prosecutors, and very often the witnesses, appear before him with all their bad passions inflamed, in consequence of some injury which they or their friends have received.

That a collector, from his constant intercourse with the people, obtains, incidentally, a considerable knowledge of the good and bad characters in his district ; of the harbourers of thieves, and instigators of robberies, &c. ; which is of great use in the police department ; whereas, a magistrate, seated all day in his office, hearing cases, has no leisure to acquire such information, and is obliged to trust to the reports of spies and police-officers, who are, more or less, interested persons.

There is much truth in both these arguments. In the present state of Indian society and government, it would, perhaps, be

better for a man who is ultimately destined to be a magistrate, that he should spend the first two or three years of his career as assistant to a collector than as assistant to a magistrate; the knowledge thus acquired will also be of considerable use to a civil judge, in deciding suits for landed property; but with regard to the second, there does not appear to be any reason why any information calculated to be of use in police affairs, which may be obtained by the collector, could not, and should not, be by him communicated to the magistrate. Thirdly, that a mere magistrate is inclined to attach too much importance to the prevention of theft, and to police matters generally, without reflecting on the consequences. In the words of Sir Thomas Munro, "he thinks nothing of subjecting a whole district to a kind of police martial law, while in reality the evil of a few thefts is not so great as a magistrate with his head full of stolen property is apt to believe."

There is much truth in this also. In the zeal of an officer of the above description to trace out and apprehend a thief, or other criminal, he forgets how much collateral evil his measures produce; or rather he cannot imagine it, having never been in a situation which would enable him to perceive it. Many of the measures adopted by different magistrates, although with the best intentions, would produce both a smile and a sigh, at the harshness of some, and the absurdity of others. One man fancies that much good may be done by the employment of spies. As soon as this becomes known, he is surrounded by a host of scoundrels who give him abundance of information against certain individuals as receivers of stolen goods, harbourers of thieves, &c. Vigorous measures are pursued, and some scores of reputed offenders are apprehended and thrown into gaol; many of whom remain there three weeks or a month, or even more, before their cases are heard. I could give an instance where an "active magistrate," who had been newly appointed to a district, which certainly was in very bad order, carried this system to such an extent, that in very short time he had upwards of three hundred "under examination," some of whom were months before they were brought before him, while the whole of the civil business

was altogether neglected*. Another, having discovered that some of the landholders are connected with the thieves, and afford them protection, supposes that all of them do so. He summons them to court, keeps them in attendance days and weeks, fines them without mercy, or sends them to gaol for "neglecting to assist the police;" never dreaming of the injury done to the cultivation of the lands, and realization of the revenue, by the continued absence of the head men from their villages, or the injustice he is committing by punishing, in an arbitrary and indiscriminate manner, a whole class of persons for the faults of a few. A third runs into another extreme:—having had before him several cases of oppressions committed by the police, he adopts the idea that this is the sole cause of what is wrong in the district; he supports the people in every instance; is ready to believe and encourage every accusation made against the police-officers; discharges some, and fines others, till at last their authority is all but annihilated. These are by no means far-fetched suppositions; in illustration of every point above mentioned, many men and many districts might be cited. The mere police magistrate knows nothing of all the evils resulting from these modes of proceeding. Being confined to his office the whole day, he has no leisure to make acquaintance, or enter into conversation with any of the people out of court, and knows not whether his measures operate well or ill.

A collector, however, would soon hear of the evils above alluded to, from the defalcations of the revenue which would ensue, and would endeavour to prevent them. But it should be kept in mind, that his tender solicitude for the welfare of the people would only be exerted in favour of those who paid rent to Government: the owners and cultivators of rent-free lands may be summoned and fined without cause, and treated as harshly as the magistrate pleases, without the collector caring one pin. The real fault lies in the system. There is no reason why a magistrate might not be as well acquainted with the state

* A neighbouring collector humorously observed, "If Mr. — wishes effectually to abolish thieving, he need only put one half the people of his district in gaol, and station policemen to watch the other half." This magistrate was also a civil judge.

of his district, the characters of the people, and the result of his measures, as the collector of the revenue, if he had leisure to move about, maintain the necessary acquaintance with the people, and make the requisite inquiries. But this is hopeless as long as the time of a magistrate is occupied all day in hearing trials in court; and this must be the case while more duty than he can possibly perform in an efficient manner is imposed upon him; consequently, his business is hurried over in any mode which enables him to clear the file, and send in to the superior authority (what are called) satisfactory monthly reports.

The objections to the union of the two offices are, that the collector is thereby constituted a judge of his own actions; that he is relieved from control and responsibility; and that there can be little protection to the people against extortions in realizing the Government revenue, where the same person, as magistrate, will decide a complaint against his own acts, as collector.

This is undoubtedly a strong objection, and, theoretically, quite sufficient to condemn the system at once. But, unfortunately, the collector is empowered, under colour of law, to commit so much extortion, oppression, and injustice, in order to realize the Government revenue, that, *in practice*, the magistrate is prevented from exercising any check or control over the officers employed in the collection of the revenue. Provided these have a little tact, they may oppress and extort to any extent that the people can or will bear; and even should they go a little beyond their already ample legal powers, a magistrate who should venture to punish them would soon feel the effects of the displeasure of Government, from the representations of the collector that he had been thwarted in his laudable endeavours to fulfil the main end and object of his appointment,—namely, to realize the utmost possible revenue for the British Indian government. Of course Government would not openly express such sentiments; it would, as usual, be profuse in liberal professions, and declarations of its anxiety to put a stop to any abuse of power; but it would be intimated to the magistrate that he had taken an exaggerated view of the case or cases in question; that his proceedings were harsh, and the penalties inflicted much more severe than the

occasion required. This is a lamentable state of things,—but such it is !

Were the administration of British India on a proper footing, and carried on for the benefit of the people, the proposed union of the two offices could hardly be defended, either in theory or practice ; but practically, I am rather inclined to approve of the measure.

In the first place, it seems to be generally admitted that those districts, namely, Delhi, and the Saugor and Nerbudda territories, and Kumoun, in which the system has existed for several years, that is, ever since our acquisition, have been better governed than what are called the “ Regulation Districts,” in which the offices of magistrate and collector have been all along distinct. Various causes have been assigned for this ; in one of which, certainly, there is no truth ; namely, that superior men have been selected for the administration of those provinces. When young men leave college to enter into the public service, their distribution to the different parts of India has hitherto been regulated entirely by interest, chance, or their own inclination. One preferred the gaieties or music parties at Calcutta ; another has a friend at Patna ; a third a relation at Cawnpoor ; a fourth wishes to enjoy the fine climate of Kumoun ; a fifth longs for the lion-hunting, for which parts of the Delhi territory are famous, &c. &c. Each made his application, and received his appointment accordingly, provided it did not interfere with the claims of others, who had superior interest. Several military officers have been, and still are, employed in administering the affairs of the Saugor and Nerbudda territories, the selection of whom was a matter entirely of interest. Once in the respective departments, the young men have risen by seniority to the highest situations ; those lines of service having been, with very few exceptions, preserved distinct.

In the next place, under the proposed system, three public officers will be employed to perform the work which has hitherto devolved on two. Up to the present time, in each district, there has been one person who held the united offices of civil judge and police magistrate, and another that of collector. The conse-

quences of the union of the two former duties have been, indeed, deplorable ; the police being quite sufficient to occupy the whole of the officers' attention, the civil code has been so much neglected, that these courts are now become mere non-entities. To apply to them for redress is considered worse than useless, as incurring additional expense, in the shape of stamps and fees, without any benefit. The evils of such a state of affairs are scarcely to be appreciated, except by those who have experienced them ; and the encouragement which is held out to every debtor to defraud his creditor, which, again, drives creditors to resort to corrupt means of obtaining their just demands, has promoted the demoralization of the people to a fearful extent.

By the proposed system, the civil judicial duties are to be properly performed by the judge, whose whole attention is to be devoted to that object, the magistracy being transferred to the collector. But as this arrangement would render the duties of the latter officer too laborious to be executed efficiently, he is to have a deputy ; and, of course, it may be expected, that between these two functionaries some proper distribution of the work will be made ; of which the most obvious is, that one should attend to the revenue, and the other to the police, or magistracy department ; the young men who are assistants to each being distributed accordingly. The native establishments will be kept separate, it may be imagined ; for if the subordinate revenue officers be invested with police powers, they will, undoubtedly, turn their increased authority to their own advantage, and the oppression of the people.

The fact is, that the existing evils are so great, that, as observed by Mr. Holt Mackenzie, in his minute of 1st October, 1830, " I am ready to hail almost any change." The system now proposed, is probably intended as a step to a complete division of the three branches of administration, which would be the best of all. Practically, all things considered, it promises to be an improvement on the mode of administration which has hitherto existed. After a little experience we shall be able to judge better how it really operates.

August 1, 1832.

No. IX.

ON THE OFFICE OF COMMISSIONER OF REVENUE AND
CIRCUIT.

SOME observations on this office will form a continuation of those in the preceding paper; and, in the first place, it will be proper to define the nature and duties which it involves.

In revenue affairs, the Bengal presidency was divided into three portions, denominated the lower, central, and western provinces; in each of which existed a board of commissioners to superintend the proceedings of the collectors and other officers employed in the assessment and collection of the revenue. For the trial of prisoners, at what in England would be called the assizes, there existed several courts of circuit, whose judges, as the term denotes, made periodical circuits to the different provinces to hold gaol deliveries. The head-quarters of these courts, situated at Bareilly, Benares, and other places, formed the tribunals for hearing appeals from the decisions of the civil judges and police magistrates (these offices, with few exceptions, having been hitherto held by the same individual). To regulate the police on an uniform system, there were two officers, denominated superintendents of police, each of whom exercised the control and direction of police affairs over nearly half of the Bengal presidency.

The affairs of the country did not, however, appear to be well administered; and it was thought that a change in the constitution of the above authorities might effect an improvement. The great objection to the existing boards and courts was the extensive jurisdiction possessed by each, which obliged men to submit to injustice, rather than incur the expense and loss of time necessary to enable them to procure redress. The authority of the board of commissioners in the western provinces extended over a tract of country more than five hundred miles long, by about two hundred broad. The Bareilly provincial court of appeal exercised authority over nearly as large an extent; comprising thirteen

provinces, in each of which the assizes, or, as they are called in India, the sessions, were held. The judges proceeded on the circuit twice a-year; so that, if no hindrances occurred, the ordinary time a prisoner would lie in gaol, between committal and trial, was from one to five months. But from the illness of a judge, a heavy calendar in the first province visited, any extra business to examine and report upon, or other accidental causes, great irregularity occurred in holding the sessions; one following another sometimes within a month, and at other times not till twelve, or even fifteen months afterwards, during all which time, the prisoners committed for trial immediately after the previous sessions remained in confinement.

All this, undoubtedly, was the cause of great injustice: the obvious remedy would have been to have appointed a sufficient number of additional officers, thus diminishing the size of their respective jurisdictions; but this, it was said, was impossible in the present financial circumstances of the country. The plan adopted, therefore, was, to unite the three functions of commissioner of revenue, judge of circuit, and superintendent of police. These were to be exercised by the same individual, whose jurisdiction should extend over not more than two, three, or four provinces, according to their size; a single board being retained to direct the proceedings of the commissioners in revenue matters; while a diminished number of judges of the provincial courts were left at their respective head-quarters to hear appeals from the decisions of the civil judges.

This arrangement is theoretically liable to the same objections as the union of the offices of collector and magistrate, but not to the same extent. The impolicy, and, indeed, absurdity, is urged of making a *tax-gatherer* a judge; but things are very different in India and in England. The best qualifications for a public officer in any line in India, is to possess common sense, a little tact, and a good knowledge of the language and customs of the country. This, alone, might not suffice to make a good judge in England; but the systems and customs of the respective countries will not always bear comparison. In India, a man with the above qualifications would, in a short time, make himself acquainted

with the technicalities of the regulations, and would be more fit for the office of judge, either civil or criminal, than the best lawyer, who had every law at his fingers' end, provided he had no other knowledge.

Practically, the new arrangement has, in some respects, been a decided improvement upon the old. The sessions are now held with greater frequency; and men do not now remain in gaol, between committal and trial, so long as they formerly did. Appeals from the decision of collectors and magistrates can be made with less trouble and expense to the suitors, and are decided much more speedily. Complaints are, however, made, that considerable discrepancy exists in the mode of regulating the revenue and police affairs, in which there is probably much truth; these two departments allow a good deal of latitude and discretion in their administration, and each commissioner is naturally guided by his own views; while the general supervision of the board of revenue in fiscal matters, and of the secretary to Government in matters of police, is not sufficiently decisive. Complaints are also made of clashing of authority between the commissioners and board of revenue.

There are some evils which, however, are merely temporary, and are attributable to the precipitancy and haste with which the new system was introduced, before a sufficient number of officers, acquainted with all three duties, could be found. Some of the new commissioners had been employed all their lives entirely in the judicial, and others only in the revenue line; the consequence of which was, that some individuals paid attention to one portion of their duty, and neglected the other; others thought the best way to avoid the appearance of ignorance, and to support their authority, was boldly to issue orders at hazard; while a few had the wisdom to make themselves conversant with their new duties, and, in the mean time, to support the orders of the subordinate officers, until they themselves were better qualified to form a judgment upon the different subjects brought before them.

One part of the new system is objectionable, namely, the power granted to single commissioners to reverse the orders of a magistrate or collector. When an appeal lay to the provincial court, a very salutary rule existed, that, although a single judge might

confirm, to reverse the order of a magistrate required the concurrence of a second judge. This formed a very proper check to the indulgence of private feelings (which have, by far, too much influence in India, to the great detriment of the public service), or to the issue of a hasty and inconsiderate order. In practice, I am aware that this occasioned great delay; but this was owing to the insufficient number of judges of the provincial courts, which seldom allowed more than one to remain at headquarters, the rest being on the circuit. The power having been granted to a single commissioner, the orders of the collectors and magistrates have been interfered with to a much greater extent than ever before existed; for many of the commissioners were men who thought it beneath their dignity to appear to hesitate. Some, indeed, seem to have been so delighted with their new and sudden acquisition of power, that they ran riot in such a way as to remind us of the beggar on horseback; and issued orders at hazard, without recollecting that they were quite unacquainted with the business under consideration.

Hitherto there has existed no mode of remedying the evil complained of, because the paucity of civil officers, and the expense that would have been incurred, precluded the appointment of a second commissioner in each division; but there is now a very good opportunity of providing the same efficacious check which formerly existed. The sessions' judges are here alluded to. As there is one of these officers in every district, a reference to them would occasion but a very slight delay. I would propose that, to *confirm* the order of a magistrate or collector, the authority of the commissioner should be sufficient; but that to *reverse* it, the concurrence of the opinion of the nearest sessions' judge, to whom the matter should be referred, should be necessary; and in the event of a difference of opinion between him and the commissioner, either the case should be referred to the sessions' judge of the next district as umpire; or that if one of these authorities agreed with the magistrate, the order of that functionary should not be altered.

On the whole, I am inclined to approve of the new arrangement which has been above discussed; at least as an experiment,

it was worth the trial. The benefit derived from it by the prisoners committed for trial has been great;—how it will succeed in revenue and police affairs, requires a longer time to enable us to pronounce a decided opinion.

August 15, 1832.

No. X.

ON THE INTERCOURSE BETWEEN THE ENGLISH AND THE
NATIVES.

THE utility of newspaper discussions, on such subjects as these, has been lately a topic of consideration. By some they are condemned on the plea that individuals are the best judges of the propriety or otherwise of private conduct; and that in public affairs Government are aware of the evils. Were these positions granted, there would be an end of all hope of improvement. Others, who agree to the propriety of general discussions, object to newspapers as the vehicle for bringing them forward. But if remarks on particular subjects are calculated to do good to the community, provided they be written with temper and moderation, that plan seems most advisable which will give them the greatest publicity.

In India the greater number are so occupied with business that they have little leisure for reading. Books, too, are expensive, and, however well written, will often remain unperused and unknown; while a statement in a newspaper, which is seen by every one, will frequently be read, and its suggestions be sooner or later carried into effect by those who, although they may possess much greater talent than the author, might not have sufficient opportunities of discovering the abuses on which he descants. In India, unfortunately, society is divided into two classes, widely separated from each other, between which little or no community of feeling exists. Of these, the *few* make public laws, and adopt private rules of conduct; while the *many* are subject to their effects; and, from the circumstance just men-

tioned, the former have very little means of knowing what these effects may be. I believe the different members of Government to be actuated by a desire to benefit the country and people under their authority, but they often find it difficult to discover what is really best, and have not sufficient leisure to investigate many plans which are laid before them, and many others which would meet their eye, if the authors of them had any hope of their receiving attention.

We may take for an instance the regulations respecting the t,heeka (or hackney) bearers in Calcutta*. The insolence of these men, and the annoyance they gave to all who had occasion to employ them, had long been a subject of universal complaint. The members of Government being, from their rank and circumstances, above the necessity of making use of these men, felt nothing of this; and any proposal by an individual to establish rules for their control was met by the observation, that they had matters of greater importance to attend to. By constant notices in the newspapers, however, the evil was shown to be so glaring, that a police regulation was at last enacted, to the great benefit of the community. It is pretty evident, that, had not the newspapers taken up the subject, nothing would have been done to the present day, and as it was, nine years elapsed from the time when the subject was first publicly brought forward, before so simple a matter could be effected. Madras, it may be remarked, is far superior to Calcutta, in all measures relative to the police; and it is greatly to be wished that regulations, similar to those for police, were enacted respecting the porters, carts, ferry boats, &c. of that city, and in other parts of the country.

But to return to our subject, from which these observations and digressions have led me further than was at first anticipated. When I first touched upon the present question in some of the earlier numbers of these papers, I was accused of adopting a tone of severity and asperity towards my countrymen. I regret that such an impression should have been awakened, as it was unintentional. My object has been an attempt to benefit the country

* These, with their palanquins, ply in Calcutta, like hackney-coaches in London.

and people of India, and to show in what mode the English government might be made to rise on a more secure foundation than that on which it rests at present. It has been my fortune to hold confidential intercourse with many classes of natives, sufficient to convince me that neither our government, nor the English as individuals, are so popular with the people at large as should be desired, or indeed, as was formerly the case; and it appeared well worth the trouble to endeavour to discover the reason of this change for the worse, in the native feelings towards us

The virulence with which my observations have been attacked, is quite sufficient to prove their general truth; and that it was that *very* truth which gave the offence. Loss of temper and angry language on the part of one of two disputants, is a certain evidence, not only of his having the worst of the argument, but of his being conscious of it. We should be above the attempt to conceal our own faults and imperfections, by abusing the natives: they have, no doubt, faults enough to answer for, but they are not quite so bad as the generality of the English represent them; and in judging of them, we should take into the account their general ignorance, and their superstition, with all its evil effects upon their minds and morals. Instead, therefore, of attempting to discover what is wrong or absurd in them, as an excuse for own indecorum and impropriety of conduct, it will be the wiser and more manly course to set the example of reform in our own persons.

It may be received as an axiom, that, generally speaking, a decline in the prosperity of any country or institution has its origin in something wrong in the upper ranks, or in the leaders. This is certainly the case in the diminution of kindly feeling formerly existing between the natives and their English rulers. They have been treated as an inferior race by Government, and have been made to feel this in a greater degree by the behaviour of individuals. Many facts were mentioned in support of this assertion, and as their correctness could not be denied, it has been attempted to explain away some, and to pervert others. It was observed that, formerly, scarcely any native ever passed an Englishman without saluting him; whereas at present the very

reverse was shown to be the case. It was said, by way of explanation of this, that they were compelled to do this under the native governments, but that we have not insisted upon the custom ; but how does this account for the fact of their showing us this respect for several years after British government had been established in the different parts of the country, and for their subsequent discontinuance of it ? A more correct account would be, that they were disgusted with our incivility and want of good breeding in neglecting to return their complimentary salutations, the truth of which it is in the power of any one to prove to his own satisfaction. An Englishman, even of the highest rank, civil or military, on his first arrival at any station will receive salutes from those natives only who are in some way or other dependent upon him. If he pass by without returning the civility, it will be the same as long as he may remain ; but if, from the first, he will make a practice of returning the salute*, he will find, that the number of people paying him this respect will daily increase, till at length scarcely any native will omit it.

Again, with regard to the remark about the refusal of the Moosulmans to eat with us ; (which was not the case formerly.) It was not made with any wish to induce them to alter their present habits in this particular ; for, as has been justly observed, the customs of the two nations observed at their meals are so different, that until either party will agree to adopt those of the other, each must continue to eat separately. The circumstance was merely noticed as an indication of a change for the worse in the friendly feeling of the natives towards us, which could hardly have taken place without some cause. The observation on the subject of outward attention to religion was plain enough, except to those who wilfully misunderstood it ; and was intended as a hint to those few who ran into the opposite extreme, and, in their anxiety to conciliate the natives, have affected to pay respect to the idols of the Hindoos, or partially to adopt the creed of Mohommud.

We have, doubtless, just cause of complaint against the natives

* No gentleman in England would omit returning the bow of the humblest peasant : why should we be above this civility here ?

in the point under consideration. It is but too true, that in all intercourse, whether in visits of ceremony or of social meeting with Europeans, they too often evince a disposition to encroach on our civility, and a desire to make themselves, if possible, appear the superior persons. Yet even from this, were we not blinded by prejudice, we might learn a lesson. The natives rarely, if ever, make these attempts in their intercourse with each other; because they know it to be fruitless, each person being fully acquainted with the rank and situation of the other, and with the forms and habits of society. But experience has shown them, that Europeans are, with few exceptions, ignorant or careless on points of oriental etiquette; they are, therefore, induced to presume accordingly. If we would take the trouble to make ourselves acquainted with the customs of the people, not only should we be able to check all attempts at encroachment on their parts, which would soon have the effect of preventing any attempt of the kind, but we should rise in their estimation accordingly, just as a foreigner would do in English society, who was observed to know the rank and situation of the different members of the company into which he was introduced. At present the behaviour of the English towards the natives in India is a strange mixture of wantonly annoying their feelings in many instances, and in foolishly giving way to them in cases where compliance ought not to be practised.

I would here allude to the practice of taking off the shoes before-mentioned, and which seems from a late occurrence to have attracted some attention. I can consider it nothing less than a wanton insult in an Englishman forcibly to enter a mosque or a temple without this mark of respect, or rather of consideration for the prejudices of the people. If he dislike to comply with their customs, he should not enter these buildings; and at the same time, not only do I think that we are fully entitled to expect the same attention from the natives in return, but that our neglecting so to do is extremely improper, and tends to lower ourselves in their opinion. Natives of rank, at the present day, in many parts of the country, will walk into our rooms with their shoes on their feet: this practice had its origin in Calcutta, where the mass

of the natives are of a very inferior order, and the English are the most ignorant and careless, generally speaking, in points of eastern etiquette. But it is gradually spreading over all the country. In order to take this liberty, they sometimes affect to tell us, that it is a matter of little consequence; yet, among themselves, they will boast of having been permitted to do so, and speak contemptuously of the English for allowing it. Hitherto, a mild rebuke from an individual has been found sufficient to put a stop to it, as regards himself; but if not checked, it will become an established custom. I could instance several civilians and officers of rank who have been particular on this point; and as their observations were made with temper, and in gentleman-like Hindostanee, the desired effect has always been produced. They have generally spoken to the following effect: “ Nations have different customs; ours is to uncover the head—yours to uncover the feet, as a token of respect. You would not presume to walk into the sitting-room of another native with your shoes on; why then do you treat me with a disrespect which you would not show to one of your own countrymen? I am not prejudiced, and it is quite immaterial to me which practice you choose to adopt. You can either take off your shoes or your turban, but I must insist on one or the other mark of civility if you wish me to receive your visits.” This is unanswerable by any native; and those English who have acted in this manner, have been decidedly more respected by the people. The practice of taking off the shoes is not, perhaps, an indispensable part in the ceremony of taking an oath; but to show the importance attached to it by natives of respectability, I may instance, that I have more than once seen a Hindoo trooper enter a court, in uniform, and, of course, in his *boots*; on being desired to take an oath, he spontaneously said, “ Allow me to put off my boots before taking the water of the Ganges in my hand.” In the instance alluded to in a former number to have taken place in the Supreme Court, the native who refused to do this could have had very little sense of decency. But the Bengalees are generally allowed to be the lowest in habits and principles of all the people of India, and of the Bengalees, the inhabitants of Calcutta are, perhaps, the worst.

They are, indeed, with few exceptions, a set of half-civilized savages, who have, for the most part, acquired the bad habits of both nations, and the good of neither.

It has been before remarked, that many young men, on their first arrival in India, give considerable annoyance to the natives, unintentionally, and without being aware of it. And it may be added, that there are many customs and practices in themselves blameless, but from which it would be wise to abstain, if we wish to retain the good opinion of those among whom we live. Thus, there can be nothing *intrinsically* improper or indecorous in an Englishman's going into company in his dressing gown. His person would be as much concealed as if in a full dress; and if the king, or some leader of *ton*, were to take it into his head to set the fashion, it would soon be followed by the circle in which he moved; so that, in a short time, a full dress in the present costume would be as *outré* as a dressing gown would appear at present. Yet, considering the ideas among the English on these points, a man who wished to escape censure, would certainly not appear in such an attire in company. So there are many little acts which it would be considerate towards the natives to refrain from, at times when their feelings would be wounded by the performance of them. I have no wish to persuade my countrymen to give up their beef and veal; but I would advise them not to have these meats put upon the table while respectable brahmins were standing around it on business. Many similar points will, on a little reflection, present themselves to notice.

One word more, on the subject of the annoyance caused by the interminable visits which, it is complained, natives sometimes pay to Englishmen, and which a little explanation will enable us to account for. Among Europeans it is the custom for the visitor to depart of his own accord: among orientals, the reverse is the case. In visits of ceremony between men of rank, the signal for departure is given by the call for *uttur** and beetel-leaf, which are presented to the visitor. In familiar visits the host merely requests his visitor to take leave; and among themselves, for the latter to rise for that purpose without being requested, would be

* Commonly known in England by the name of otto of roses.

considered as rude as it would be among us, were a guest to leave the room without saying a word during dinner. Whether a native visits an Englishman in the oriental style, by first sending to know if he can be received, or in the European, by calling on the chance of being admitted, he cannot get over the feeling of the impropriety of taking his leave until he is dismissed; and this leads him to sit much longer than either he or his host find agreeable. This custom is certainly a very convenient one to the person visited; but young Englishmen, not being aware of it, often make the above complaint. In future, however, no one who reads this paper need subject himself to any annoyance on this head, if he will simply request his native visitor to depart after he has sat as long as is agreeable, which I will further observe should be done, not by saying "*Toom jao*," but "*Ub roksut leeje*," (be pleased now to take leave,) or, to an inferior, "*roksut ho*," (take your leave.)

Numerous points might be mentioned in further illustration of this subject; but I have said enough to elucidate the general principle of the propriety of adopting a reciprocal civility of manner between the English and the natives of India; and shall only repeat in conclusion, that it ought to be the object of every Englishman to render our rule as stable as possible in this country: that this will be greatly facilitated by adopting a mode of behaviour which will induce the natives to regard us with respect and favour, to which end we should not only be kind and courteous to them, but take care not to allow any slights or disrespectful conduct on their part to pass unnoticed: for which purpose a knowledge of their language and customs is indispensable.

August 25, 1832.

EXPLANATORY.

TO THE EDITOR OF THE INDIA GAZETTE.

SIR,—The repeated notice you have taken of my communications has been gratifying; both as it affords a proof of the value you attach to them, and encourages the hope of their further utility.

Your observations in the *Gazette* of August 13th, on my paper "of bribery and corruption among the natives in authority," are well meant, and have been taken in good part. I cannot, however, allow them to pass without a few words of reply and explanation.

In the first place you have misconstrued my meaning in saying that I "lay down the statement, by implication, but very plainly, that there is no more corruption in India than elsewhere." I had no intention of so doing; nor do I think the language adopted by me is sufficient to justify so broad a conclusion. My object was to induce those who do, or who ought to take an interest in the subject, to view it *fairly*; and, at the same time, to convey a hint of the impropriety of those sweeping censures and injudicious accusations against the people of India, which would imply that they were a solitary instance of national degeneracy and immorality.

The first requisite in judging of the natives of any country, either abstractedly or as individuals, is impartiality: and with reference to India, as they are so intimately connected with our Government and affected by our example, in discussing their character, it is just not only to expose their faults, but at the same time to examine our own conduct, and see if there is anything in it requiring correction. Comparisons, it is said, are odious; but equally so is self-sufficiency, and a tendency to estimate ourselves too highly; and it will be often found that objections to comparisons arise from the apprehension that they may prove to our disadvantage. In this country the English are so prone to despise the natives and approve themselves, that any attempt to lessen the supposed difference between the two nations would be unpopular; and if from a countryman, must expect to be viewed with a suspicious eye.

I have already given some of the principal reasons which operate more or less in conveying an unfavourable impression of the natives of Hindostan. Most of the English in India are gentlemen both by birth and education. I have alluded to the early age at which they become acquainted with the natives of India, before they have had any personal experience of human nature,

(except at school or college,) at a period when their feelings and passions are in full action, and their judgment immature. I have remarked, that on first arrival in this country, they usually meet with an inferior description of natives in the capacity of private servants, who as often abuse the kindness of the benevolent, as they call forth the evil tempers of the oppressive; and have shown that their first introduction to official business initiates them at once to the worst and most depraved, in the characters of criminals, witnesses, and official subordinates. I have also dwelt upon the generally-received opinion of the importance of early impressions, and the difficulty of eradicating those which have been imbibed in youth. All these circumstances can hardly fail to act unfavourably to the natives, in forming a judgment upon them, and raising the standard of our own countrymen by comparison. Yet notwithstanding this, it is certainly true, that those who have known them best, and whose judgments may be most depended upon, have, generally speaking, entertained a favourable opinion of them, and spoken of them in a kind and indulgent tone. The truth is, that there are good and bad in all countries; and that human nature in its general outline of character preserves the same lines, with little variation, according to the circumstances in which it is placed. In one instance a young man, shortly after his appointment to the judicial line, wrote a long account of the natives to his father in England, describing them as possessing almost every bad quality, and scarcely a single good one; and supporting his observations with numerous cases of all sorts of villany and crimes which had been brought before him in court, (the only sphere in which his powers of observation had been exercised.) His father, in reply, cautioned him against forming too hasty a judgment, observing that his experience was too limited to enable him to decide correctly; and that were a foreigner, on his arrival in England, to be appointed to preside in a police court, his opinion of the English would be equally unfavourable; concluding by assuring him, that he could find him a parallel for every case he had mentioned in his own county.

I have not leisure at present to enter into the general character of the natives, and the causes which have made them what they

are,—a subject which may furnish matter for future discussion ; nor do I intend to enter at large into a comparison between them and the English, or Europeans generally. I will merely touch on a few points, by way of hints to view the subject *fairly*, before opinions are formed.

The English are probably at this moment equal to any nation, and superior to most, in truth, honesty, and general morality ; yet, judged by a proper standard, even *they* will not stand very high. Those who in England have had much to do with the lower classes, almost universally declare, that where there is a fault to conceal, a falsehood is told without scruple ; and even among those who affect to “ scorn a lie,” deceit and equivocation are generally used. Hear what Heber says, (than whom, perhaps, a more close observer and accurate judge of human nature has seldom been found) in his remarks on the boys of the Free School at Calcutta.—“ Lying, to conceal their faults, and under fear of punishment, is also very prevalent ; but on this I cannot lay much stress, since even in English schools, among little boys of the lower rank, I know it is so common as hardly to be exceeded.” It is probable, that the lower classes of the natives of India would suffer little in this respect from a fair comparison with corresponding ranks in England. Among the middle and upper ranks in England and India, the difference would be found considerably greater ; though even these classes in England would not stand so good a test as is generally supposed. The very extraordinary frequency of the imposition of *oaths* in the most trivial cases, among the English, savours strongly of an expectation of not hearing the truth without them : indeed the outcry and expressions used in the event of a judgment pronounced on “ statements not verified by oath,” seem to convey an intimation that they could not be depended on.

In point of *honesty*, who but a very careless person, and one that would be censured for his neglect, will pay the smallest bill to a tradesman without taking a receipt ? What merchant will pay a sum of money to another with whom he has an account current, and be content with the latter entering it on his books, without the same precaution ? In the payment of debts and

bills, any shopkeeper in India could show a lamentable account of money which was withheld from him by his English customers; of low subterfuges used in reply to his solicitations for payment; of false orders given, which the writers knew would be dishonoured; and even of promises shamefully broken. Have not the proprietors of the Calcutta newspapers been obliged to demand the subscriptions to their papers in advance? And did not the editor of one of them, about four years ago, in publishing a notice to this effect, enter into an explanation, that, however sorry he was to be obliged to have recourse to such a measure, matters had come to such a height, that he had no alternative between making such a demand and relinquishing his paper?

Do not the Calcutta tradesmen constantly conclude their advertisements with the sentence, All orders from the country to be “accompanied by a reference for payment in Calcutta,” which is only a civil way of saying, that unless the payment of an order from a gentleman in the country be guaranteed by a mercantile house in Calcutta, they will not send him the goods? And can all this be anything else but the result of the experience of the difficulty of obtaining a liquidation of their just claims? Is it not notorious, that the extension of the insolvent debtor laws to India, has been the cause of great difficulty in procuring loans of money, whether for mercantile or other purposes? What other inference can be drawn, but that the fear of punishment *alone* induces a great number to pay their debts, and that now the punishment is lessened, neglect or refusal to pay is the consequence*.

In point of general morality, our standard differs from that of the natives of India. Because we find them fail in matters in which we are particular, we plume ourselves on our superiority, and cover them with reproach; forgetting to “look at home,” and examine whether all be indeed right there. A Turk was taunted with drinking wine, in opposition to the precepts of the Koran. He answered, “In your Bible, *murder* is forbidden;

* I do not mean to impugn the justice of these laws; under proper restrictions they would be excellent; but it cannot be denied that practically they have been too lenient, and have afforded too great facility to dishonest people to defraud their creditors.

yet many of you Christians not only practise, but *approve of the system* of duelling; and that, too, for a very slight provocation." Another Turk was reproached with his wretched Government, where the Sultan could cut off any man's head at pleasure. He replied, "The English tear men away from their families, and force them to fight the enemy, because they will not consent to pay a tax sufficient to raise a revenue which will enable the Government to give them pay enough to induce their sailors to come forward voluntarily*." The cruelty of selling slaves in Constantinople, brought from Georgia, was urged. The Turk replied, "The English in the West Indies sell slaves, torn from their families in Africa, or throw them into the sea, if they chance to grow blind on the voyage." To turn to other points,—*Chastity*, for example. To begin with the lower classes,—(I assert it on the authority of several gentlemen, Justices of the Peace in England,) in the *towns*, there are not many female domestic servants whose character in this respect would stand investigation; and even in the country villages, where there is so much less temptation, a girl is not excluded from the society of respectable women, provided she be married before her child is born. The very expression currently made use of, shows how very venial the fault is considered:—"She was made an honest woman of,—and what then? Nobody can say she ever had a bastard." Your remark, as to the natives, applies here. "No wonder it should be so common, when so little shame is attached to it." To ascend a step higher in society, the ease with which the daughters of tradesmen, milliners' apprentices, &c. yield to the seductions of men in the rank of gentlemen, who have been base enough to take advantage of a fair occasion, is a matter of too general notoriety to require much to be said in proof of it here. The higher classes have undoubtedly a very superior tone of feeling and conduct on these points; yet it should be considered how little opportunity the state of English society affords

* The harsh treatment and small pay of sailors in the navy, is the reason why impressment is necessary during war. Navy sailors received from thirty to thirty-five shillings a month, while those in merchant vessels could often obtain five pounds, to say nothing of the chances of being killed, and the severe discipline.

for anything of the kind among them. To say nothing of the habits of delicacy in which both boys and girls are educated in their *nurseries*, and the moral and religious education all (with few exceptions) receive, the upper ranks in England have, under the name of “propriety” and “etiquette,” contrived to introduce a very tolerable system of surveillance over the sex. The fear of heavy damages, or of a duel with the husband or brother, has also very considerable effect in preventing the seduction of women in the higher ranks.

In minor points, I could on my own knowledge specify some scores of individuals in India, who are in the constant habit of sending *private letters* “On Service,” the writing of which sentence on a letter is tantamount to a declaration, on honour, that the letter is *bonâ fide* on the public service,—the object, to save a few pence of postage. All over the country, the civilians employ the inferior court officers, police, and convicts, on their private service, contrary to express orders; and I could mention one individual, who had most of his private attendants entered as court chuprassies*, and thus paid for them by Government. Is it any novelty for a commanding officer, in the cant phrase, “*To make by his bazaar?*”—or, in plain English, to take a sum of money annually from every shopkeeper established there, for permission to keep his shop within the limits of cantonments†? Innumerable points, of more or less importance, might be mentioned here, did the limits of my paper allow it. For the present, however, I will refer you to a book entitled *Essays on Morality*, by Jonathan Dymond, (2 vols. 2nd edit. London, 1830) It shows, in much abler language than I can command, how very imperfect *our* morality appears when judged by a true standard. And this, let it be remembered, is the morality, not of the poor, ignorant, *lower classes*, but of men who style themselves, both by birth and education, *gentlemen*, and *Christians*.

I beg distinctly to be understood—and must again repeat,

* A sort of court-runners.

† In India the troops are not confined in barracks, but live in detached houses and cottages scattered over a considerable tract of ground called a cantonment; within the limits of which no one can reside without the permission of the commanding officer.

that my object is not to vilify or attack my own countrymen, but to endeavour to impress upon them, that the difference between the two nations may be brought within much narrower limits than is generally imagined; in which opinion I am by no means singular; but may quote in support of it, the names of Heber, Malcolm, and Munro, with many others,—men whose judgment on the subject will hardly be disputed. Little good or improvement can be expected in the government of any country, or in the manners and habits of the people, so long as the governors of it retain such an exaggerated idea of their own superiority, and are so ready to attribute whatever is blameable to the innate evil dispositions and reprehensible customs of the people over whom they preside.

Men are the creatures of circumstances. Their habits, dispositions, and manners, are formed according to the situations in life in which they are placed. What were the Greeks of Alexander's time, and what are they now? When the peninsular war began, the idea that the Portuguese troops could be induced to face an enemy, was scouted by all who had had anything to do with them; yet, before two years were over, the same troops, under good officers and good discipline, displayed a bravery and good conduct almost equal to their British allies. Have we not, in this country, seen native troops fly at the first shot from a twentieth part of their number of English sepoy*, and the very same, not long after, when commanded by British officers, behave as well as it is possible for soldiers to do? Take yet a stronger instance than any hitherto mentioned. There are, perhaps, no people in the world who have a more obstinate attachment to liberty, and a greater contempt for foreigners, than English sailors. All must be familiar with accounts of shipwrecks on the western coast of Africa, and of the horrible sufferings which the sailors have undergone whilst under captivity to the Moors. Many have died of ill-treatment, but some have been happily released and restored to their own country. The consuls, through whom their

* Sepoy, or Sipahce, the Hindoostance word for a soldier, has been adopted in English as a matter of convenience. By using the term sepoy, a man is understood to mean a native soldier; by soldier, is always understood an English soldier.

deliverance has been effected, draw a miserable picture of those who have been rescued from bondage. They universally describe the sailors as degraded in mind almost beyond conception, as more like brutes than human beings, as abject to their masters, and ready to perform the meanest actions at the slightest bidding. Strong as this language may appear, it contains no more than the words used by the men above alluded to.

I now come to another of your remarks, where you observe, that "all ardour on the subject would be quenched, if it could be established, that there is no more corruption in a Mofussil Court than in an English one." This is not, or ought not to be, a logical conclusion. Because bribery may exist in England, even if it were equal in extent to what takes place in India, that is no reason why those who have the power should not, as they are bound to do, use their utmost efforts to check it here. If we cannot cure all the evils which exist in the world, it does not follow that we are to sit down in resignation or despair, and not exert ourselves in our own sphere, consoling ourselves with the idea that we are not worse than others. Let every one remember the precept of his childhood, to "do his duty in that state of life in which it has pleased God to call him." I have already given some instances to show, and I will advance reasons to prove, that bribery and corruption, as well as many other evils in India, may be checked, and ultimately annihilated, if the governors will do their duty.

I must now remark, that though I do not advance the position that the natives of India are no worse in this respect than the English, my opinion is, that they are not a bit worse than the English, or any other nation, *would be*, under the same treatment which they experience, and in the same circumstances that the latter are placed. Let me advert to my second number, giving an account of the supposed conquest of the British Isles by the Africans. The proceedings and results therein imagined, so far from being exaggerated, are nothing more than a correct history of the transactions of the English since their occupation of India. What has our conduct been? Daily and hourly have we thought, have we asserted, in every official proceeding, in our

publications, and in our private conversations, our own superiority, and the degradation of the natives. Openly are they taunted with their want of honesty, charity, morality, and almost every good quality, and with their total unfitness to be trusted. Wiser than all, we have rigidly *acted up* to this feeling; every course which has been hitherto adopted, has had a tendency to degrade the natives, and lower their character. Their nobles have been deprived of their states, and pensioned off to degenerate; their gentry and yeomanry have been stripped of their authority, and both these and the peasantry have been taxed to the utmost, to supply the cupidity of their English governors. The upper classes have been excluded from every office of respectability either civil or military, the hope of obtaining which, would have been a stimulus to render themselves worthy to be appointed: those situations only have been open to them which it was impossible to procure Englishmen to fill, and which only the lower ranks of natives would accept; and even of these, the salaries have been fixed at so low a scale, that in most they are insufficient to enable those appointed to support a decent subsistence.

Truly has it been observed, "Treat men as rascals, and you will soon make them such." Show an unmerited want of confidence in them, and they will speedily give you reason to entertain such a feeling. When men in office receive mere pittances, they will discover methods of reimbursing themselves, in spite of almost every effort to prevent it. What, let me ask, are the *fees* with which every applicant for every office in England is taxed? They were *originally* nothing but *illegal extortions* on the part of subordinates, which have been legalized, as it were, by custom, because it was found so difficult to put a stop to the evil. In boasting of the superiority of British institutions, people often forget to take into consideration how little is, comparatively speaking, effected by law, and how much by public opinion. Yet both combined will sometimes fail. Some years ago, complaints were loud against the exorbitant fees demanded from the merchants at the London Custom-house. Orders were issued, by the Treasury, to abolish the fees, at the same time raising the salary of the clerks; yet,

before long, the merchants petitioned for the re-establishment of the old system. The incentive to attend to their duty being gone, the clerks became so careless and remiss, that the merchants suffered greater losses in consequence, than the payment of the fees amounted to. An additional proof in support of my opinion may be found in the Calcutta police, previous to the late improvements. It would be difficult to find natives who were guilty of greater corruption and extortion than was practised by the English sergeants employed in that establishment. Not only were offered bribes unhesitatingly accepted, but these men reaped a harvest from every affray or dispute that they could hear of. In such a case, one of them was soon upon the spot, and every method of intimidation was resorted to persuade the party that was most to blame, of the serious nature of the scrape he had got into: when his fears were sufficiently excited, a proposal was then made for him to give the other party a sum of money to make up the quarrel, of which the *lion's share* was taken by the sergeant for his good offices. A little inquiry among the sufferers by these proceedings, would soon establish the truth of them; and if native evidence should be objected to, abundance might be collected among the English soldiers and sailors, who were, equally with the natives, subject to these extortions. I am told that matters are better now; if so, it must, I imagine, be attributed, not to any great increase of morality among those employed, but to the improved system of surveillance which has been introduced.

I have now a few observations to make in reply to your remark, that "the chief remedy, then, is the correction and elevation of native thoughts on moral duties, &c." Doubtless when this shall be accomplished, it will be a cure not only for bribery, but for almost every other evil. But are we to wait till then? and in the mean time to do nothing to produce this desirable effect? We may as well wait for the Millennium. When a numerous body of functionaries shall be found, who, from a sense of morality alone, will be induced fully to perform their duty, and to refrain from perverting their authority to evil purposes, the country that has produced such a body will have arrived at such

an approximation to perfection, that it will have little need of laws to restrain iniquity. Then indeed may the courts of justice be closed, and the gaols thrown open, and the “lion may lie down with the lamb.”

But in the mean time, it is the part of a wise man to take human nature as he finds it ; to bear with its faults and frailties ; to make the most of its good, and the best of its bad, qualities ; and to legislate for men, not as they ought to be, but as they are. Morality is to be bought like any other* commodity, and it is not to be had without its proper price. I have before alluded to the corruption prevailing in the civil service in former days. What has almost entirely put an end to it but raising the salaries of our functionaries to a proper standard of remuneration for the services and responsibility expected from them ? In a humbler sphere, look at the old London watchmen,—incapacity and roguery were their chief characteristics, because the pay was so small that those only who were fit for nothing else would accept a watchman’s place, (in proof of which it may be stated, that a great many of them are now supported as decrepit paupers.) There is now nowhere a more efficient police than that established in London ; produced by no other magic than that of giving good pay, and subjecting it to a proper superintendence.

Why should we pronounce the natives of India to be irretrievably depraved, before we have given any fair trial to a proper system for correcting their evil habits, and vicious propensities ? —a system, let it be observed, which in checking corruption among the English, has had far more effect than can be attributed to any improvement in the tone of morality. Had the latter alone been trusted to, we should not have had much to boast of. When the late Mr. R— not many years ago embezzled a large sum (upwards of 200,000 rupees) from the Government treasury, which was under his charge as collector, was he by any change in the conduct of his countrymen towards him made to feel that he had been guilty of a base action ? No ! I was at Khanpoor at the time, and, (let any one who can disprove the

* When the abolition of the slave-trade was first proposed, the British minister refused his support, because the trade was so lucrative.

assertion) long after the business became public, and orders had been issued to deprive him of his appointment, to the last moment of his stay, his reception in society was precisely the same as if nothing had happened; and he experienced the same feeling at Seetapoor where he afterwards resided!

After all these facts, let us pause and reflect before we so unhesitatingly pronounce on our own superiority, and the low standard of morality among the natives. Let us before we pronounce them incorrigible, at least make an attempt to improve them, not on any visionary scheme, but on a system suited to the times, the people, and, indeed, to human nature. Various remedies have been proposed, the merits of which neither time nor limits will now allow me to discuss; but will hereafter be treated of. The first and most obvious plan, as a cure not only for the particular evil under consideration, but for every other in India, is to give fair remunerating salaries for the services expected, and to reduce the districts to such limits as will admit of effectual control and surveillance. Laws will not administer themselves; nor can they be brought into operation without a sufficiency of officers to enforce them. The plan proposed will not of itself effect everything, but it is the indispensable first step; it is the draining of the marsh, without which no improvement can be anticipated: and when I come to enlarge upon it, I trust I shall prove this to your own conviction and satisfaction. Many additional steps will doubtless be requisite, the consideration of which will be entered upon at a future opportunity.

This letter has extended to a greater length than I had anticipated at its commencement, but the immense importance of the subject must plead its excuse. It is one on which anything less than plain speaking will be more injurious than productive of benefit; and I only hope that abler minds than mine will be roused to investigate matters which will exert the greatest influence on the permanency or destruction of the British power in India.

September 14, 1832.

No. XI.

ON THE PRESENT LOCAL GOVERNMENT.

PERHAPS no Governor-General has ever arrived in India with greater advantages than Lord William Bentinck. Strict integrity; a resolution to see and judge for himself; a firm determination to perform his duty towards those by whom he was appointed; and a benevolent wish to improve the condition of the people over whom he presides,—are asserted by most people to be the characteristics of his Lordship.

He landed in India at a favourable period, when the supremacy of the British power had been established more firmly than at any former time; when there were no very difficult political connexions to arrange; and when there was every prospect of the continuance of peace:—all which left him at full leisure to make inquiries on any subjects; and ample opportunity for observation, so as to enable him to arrange and mature plans for the improvement of the internal administration of the British empire. In prosecution of this desirable end, Lord William adopted two highly-praiseworthy measures,—the allowing almost perfect freedom of the press in discussing public affairs; and inviting communications from any class of people.

Never, probably, were expectations so highly raised on the arrival of a Governor-General in India; but the realization has fallen far short of what might reasonably have been anticipated. The reason of all this is well worth inquiry; and in the present discussion an attempt will be made to investigate it, so as to do justice to both parties, disclaiming at once all allusions to the private character of his Lordship, and viewing him only in his public capacity. The principal imperfections which his conduct has hitherto evinced seem to be, a suspicious disposition; a tendency to adopt hasty opinions; and a little of what has been called *obstinacy* in a *bad* cause, and *perseverance* in a *good* one, that is, a dogged resolution to maintain his opinion when once formed, right or wrong; to which may be added a disregard of

the feelings of certain classes ; or perhaps, more properly speaking, a kind of impression entertained, that men may be treated like machines, and subjected to control and movement as if they had not the feelings and passions incident to human nature.

A determination to see and judge for oneself, is no doubt extremely laudable ; but this, like many other good maxims, may occasionally be carried too far ; and should always be exercised with reference to situation, opportunities, and general circumstances. When a man is appointed ruler of a country, with whose customs, language, and even government, as to its details, he is unacquainted, he must unavoidably act either by the advice of others, or adopt measures the good or evil effects of which must be doubtful. Lord William has unfortunately chosen the latter plan, or rather has attempted to put it in practice : the consequence is, that in many cases, instead of listening to the opinions of men who from experience and observation are well qualified to judge and give information on Indian affairs, the measures introduced are the result of some private conversation with persons who have the tact to persuade him of the soundness of their views ; but whose pretensions to decide on the subject have little foundation.

Many of Lord William's views were correct. His plans for economy were good in principle. There is no doubt that a considerable number of abuses existed which required correction. Some of the civilians were overpaid ; and the salaries of others was very inadequate to the arduous and responsible duties expected from them. For instance, some of the opium and commercial agents, whose work was little more than to affix their signature to a certain number of papers daily, drew larger salaries than those of the Members of Council ; while others who had been as long in the service, and were literally slaving from morning to night, did not receive a fourth of the emolument.

Perhaps the best feature in Lord William's administration, and that which will produce the most permanent effect, and be most conducive towards the improvement of the country and the stability of the British rule, is the breaking through that narrow

policy of keeping the natives in the back-ground, and treating them not merely as a conquered race, (for, with the exception of the Normans in England, never did a nation receive at the hands of their conquerors such treatment as the natives of India have experienced, both generally and individually, from the English,) but as a *degraded* one. In throwing open both to the natives and East Indians many situations of respectability and emolument, sufficient to excite emulation and exertion, his Lordship has shown enlightened and liberal views. The old system could not possibly have existed much longer: disaffection to the British power had taken strong root in the minds of almost the whole native population; and it is not beyond the truth to say, that thousands were on the watch for a favourable opportunity to give vent to their feelings. A gentleman of the highest rank in the service is said to have remarked at the siege of Bhurtpoor, that, "If our troops should sustain a repulse, we shall not call a foot of ground in Upper India our own, but that on which they are encamped." It was one who had not only enjoyed ample opportunity for ascertaining the feelings of the natives towards the English, but had made the best use of them.

The change in the administration of justice is one that has every prospect of effecting an improvement much wanted. Many whose talents and information entitle their opinions to much weight, disapprove of it; theoretically their objections are good, but in the present state of affairs, the point is, whether, practically, justice will be better administered than formerly. Heretofore there has been in each district one person, holding the united offices of civil judge and magistrate, and another that of collector; while the sessions were held with great irregularity (see No. IX. on the subject). Now there is to be in each district a judge and principal sudder-ameen*, besides additional sudder-ameens to decide civil causes, and also a collector and magistrate, with a deputy, and a more numerous body of assistants than there ever was before, to administer the revenue and criminal business, besides a provision for holding the sessions monthly.

* These are oriental terms adopted to designate different judges of local courts.

The union of the criminal and revenue department is more suited to the state of society existing in India, than that of civil judge and magistrate. Under these circumstances, there is apparently a prospect of a better administration of justice than formerly. In process of time, as circumstances shall render it expedient, it will be easy to erect the deputies into full magistrates, distinct from the collectors, and to appoint some justices of the peace, and additional sudder-ameens, for the remoter parts of each district; and then it is probable that the conduct of public affairs in India will practically be on as good a footing as in any country; for we have not yet discovered an Utopia, where the delays of law and the expense attendant on obtaining justice are not the subject of universal complaint.

We must now consider the defects of Lord William's administration, of which the first alluded to is his Lordship's disposition to distrust and suspicion. This may be in some measure produced by having, in his intercourse with some individuals, encountered a want of that high and honourable feeling which ought to animate every public officer; but certainly not sufficient to warrant a conclusion that this is the case with the majority. Too many of Lord William's acts and sayings, would, however, lead to an inference, that he had adopted the idea that almost all the Government officers, both civil and military, were in league to deceive him and to avoid doing their duty. Many instances might be mentioned, but as they would lead to personalities in the case of those to whom they had occurred, it is better to avoid particularizing them.

Of Lord William's tendency to form hasty conclusions, and obstinacy in adhering to them, one hardly meets with a person who has not a variety of instances to quote; and though it is probable that some may be exaggerated, and others altogether groundless, it seems impossible that a character so universally given should be entirely without foundation.

The last feature mentioned has, perhaps, produced more evil effects than either of the others. Men cannot be treated like machines with impunity. Their feelings may be checked, but cannot be altogether annihilated; if not allowed to find vent in

the usual course, they will break forth in by-currents, and do infinitely more harm than if allowed to proceed at a moderate progress in the regular channel. In some cases, for example, men who wish to remain in Calcutta have been sent to a distant station, because it was imagined that their object was to idle away their time in enjoying the gaieties of the capital. Others have been suddenly ordered to change their stations, without any reason assigned, in consequence of some private intimation received by the Governor-General : instances even might be quoted where an angry answer has been returned to a solicitation to remain,—yet, just as the officer has sold his house and made his preparations to remove, that permission to remain has been given. I have heard of a case, where a young man just out of college was refused permission to be appointed to a particular division, on the plea that the number of assistants there was complete. Yet within a short time three more assistants were appointed to that division. To presentations from particular individuals of the overwhelming nature of the duties imposed upon them, which it was impossible to perform to the satisfaction either of their superiors, the people, or themselves, the answer has been, that they *must* do the work ; accompanied, perhaps, with a hint, that idleness is the cause of the complaint.

Doubtless, as I said before, there may be considerable exaggeration in this sort of anecdotes, and many cases might be adduced, where, on the contrary, the predilections and applications of individuals have received considerable attention. Yet, it is certainly true, that too many of the former instances have occurred ; and it is strange that the inutility and inexpediency of disregarding the inclinations of those under his authority should not have occurred to Lord William. Generally speaking, what can it signify to any but the individual concerned, to which of two or three stations he was appointed ? but the Governor-General's system seems to have been formed on the maxim, “ Be thankful for what you obtain, but do not presume to ask for anything ;” and it has been the more annoying, because, from the high character for conciliation and courtesy gained by his

Lordship in his former political transactions in Europe, a very different course of conduct was anticipated.

In some instances too, a mode of evading an application for a particular appointment has been resorted to, which seems unworthy of the resolution and independence which are Lord William's usual characteristics. One can hardly perceive the objects of it, after witnessing the high hand with which matters are generally carried. It has frequently happened that the applicant was told that the business in question depended on the Council in Calcutta: yet it is well known, at least as plainly as the undisguised assertions of the different Members of Council to all who apply to them can make it, that all appointments rest entirely with the Governor-General.

Lord William's anxiety to ascertain the real character of the different public officers is praiseworthy, particularly if it be his intention that promotion should really be given according to merit. The difficulty, however, of obtaining this object is considerable. The plan adopted by his Lordship, if used as a *check* to the established channels for information, might have answered very well; but the authorized sources of acquiring the knowledge requisite have been almost entirely rejected, as likely to be interested; while too much reliance has been placed on secret reports and private insinuations. These are far more likely to be interested and partial than information openly given, where a man's name stands as authority for what he may have said or written; and the consequence has been, that several persons stand high in the Governor-General's estimation, who, in the opinion of the public in general, are very unfit for their situations; while others are universally pitied for being in bad odour at head-quarters, without any sufficient foundation. The wish to avoid personality alone prevents the adducement of particular instances in proof of these statements.

On the subject of secret reports, and espionage, one would be sorry to give credit to all that is currently reported; yet it can hardly be imagined that so open an assertion would have been made at Meerut, by the reporter to the Agra newspaper,

that he had been sent for this particular purpose, by the Governor-General, had he not been aware that such a system was at least in partial operation. There are indeed sufficient grounds for such a suspicion. It is no secret that confidential reports are required from the different commissioners, as to the diligence and general qualifications of the assistants in their respective divisions; and it has been intimated to these young men, that their future promotion will mainly depend on these reports. Yet what is the real state of the case? The assistants, on reaching their place of destination, are distributed by the commissioners among the different magistrates and collectors under their authority, in whose offices they perform their duties. It is obvious that the commissioner cannot of his own knowledge be acquainted with the qualification of the assistants (with the exception of the one retained in his own office to save him the trouble of signing letters). Yet it is quite optional with him to ask the opinions of those under whom the young men have officiated or not. If he do not, he must either give a character at hazard, or a partial one, either good or bad, must be described, drawn from the intercourse of private society. If he do, he can only repeat what he is told by others. In either point of view it would be more just to the individuals in question to require their character from those who have had the opportunity of forming a judgment,—if not entirely, at least in addition to that which the commissioner is ordered to send; and it would be the more open and manly course to require an *official*, instead of a *confidential*, communication. It is undoubtedly desirable that the governor of a country should be thoroughly acquainted with the true character of those employed under him: to accomplish that object there are two modes,—official communication from public men, and the general intercourse of private society, where the characters of individuals are pretty freely discussed, while there is sufficient publicity to prevent unjust accusations. From these two sources Lord William at first professed to draw his information, and had they been made *proper use of*, there is little doubt they would have been found sufficient, and liable to no objection; but the practice of listening to information secretly given, can only tend

to lower the character of those who adopt such a system, and of those against whom it is employed*.

The frequent change of civil officers, and the great number of appointments which are filled by men who are only officiating for a time, has a tendency equally injurious both to the rulers and the interests of the people. With the sole exception of a person who is ordered to act in a situation to which he expects ere long to succeed permanently, no acting functionary ever thinks of doing more than merely performing the current business of his office. All general measures and extended views for improvement must be left in the back-ground. To attempt any such, would require for the first six months or year constant labour in inquiry, in addition to that devoted to the regular business of the office; and indeed this is absolutely necessary to render a man familiar with the characters of the native officers of his court, and the people of his district, without which it is impossible he can do justice to those over whom he is placed. But who will take this trouble when he expects to be removed, just as he has acquired, with much extra-judicial toil, the requisite information? The bad habits that such a desultory mode of conducting business engenders are difficult to eradicate: besides which, many a man, after spending some years in this sort of life, persuades himself that, having got on well enough hitherto, he has done quite enough, and that there is no need of any particular exertion. On the people the effect produced is, that they cease to expect any interest in their welfare on the part of the English functionary; and gradually keep aloof from him, and pay court to the native subordinates. Hence, in any emergency, the English officer finds himself almost entirely without influence.

It is very possible that the Governor-General may have too much confidence in the wisdom and uprightness of his own intentions, and be too well convinced of his own penetration and

* Some years ago an application was made by one of the members of Government, to a civilian in the Mofussil, to be furnished with certain information. The answer returned deserves record: "Any general remarks on the state of the country, and upon the good or evil tendency of the measures of Government, shall be sent as freely and as confidentially as you please: my opinion of individuals must be called for officially, when I hope I shall express it without fear or favour."

discernment to pay attention to these remarks, or to render it likely that the evils alluded to should be brought to his notice; nevertheless, as he professes to be ready to listen to an opinion in opposition to his own, should these observations ever meet his eye, it is hoped he will find them worthy of consideration and reflection.

However unacquainted Lord William may be with the bad consequences resulting from such a system, they cannot be concealed from the public at large; and they are now speedily developing themselves. It cannot be denied that formerly there were many glaring instances of incapacity and neglect of duty, both among civilians and military men; but these were amply redeemed by the numerous splendid examples of men who had risen by their own merits to the highest offices: and of others who had nobly sacrificed their time, health, and even emoluments, to a zeal for the public service*. The former may now be less common, but we shall look in vain for the latter. Disgust and apathy are now become the characteristics of the majority of the civil servants. They have come to the conclusion, that little is to be gained by any extraordinary exertion, (if indeed it escapes the imputation of interested motives,) and they are content with doing just so much as will save them from incurring the displeasure of Government.

The substance indeed is, in outward appearance, better than it was before. Forms are sent in with greater regularity; there is a greater display of dispatch of business; and to an inexperienced eye, matters would appear in good train. But those who look beyond the surface, particularly those induced to do so by feeling the effects of the new state of things, are of a different opinion. The soul, the spirit, the will in exertion, is now wanting. The Governor-General may command men's actions, and even compel them to control their feelings, and disguise their thoughts; but the feelings, the thoughts themselves, are beyond his power. It is to no purpose that a man is made to attend his office so many hours a day; if disgusted at unfounded suspicions

* This is not too strong language. See the "Report of the Bengal Government to the Court of Directors on the Debts of the Civilians."

and imputations against him, he is determined to take as little trouble as possible. Two day's willing exertion will do more for the district and people for whom it is made, than a week's nominal labour, if the inclination be wanting.

I do not intend to defend such a conduct, it is wrong in every point of view; but bad as it may be, it is, and will be, until mankind shall have greatly improved, the feeling of human nature; and these remarks are written in the consideration of men, not as they ought to be, but as they are.

To conclude. Under Lord William Bentinck's administration, the foundation of much solid improvement has been laid in India. His attention has, however, been too much devoted to realizing the largest possible revenue; and he has unnecessarily created much disgust by his unjust suspicions, and harsh mode of issuing his orders: but it will require a longer period to enable us to form a correct view of his administration.

September 22, 1832.

No. XII.

ON THE EAST INDIANS.

THIS is a subject well worthy of the consideration of those who are interested in the welfare of India, and particularly in that of the British possessions in this country. The class of our fellow-subjects of whom I propose to treat, cannot much longer be treated with the contempt which it has hitherto been too much the fashion to regard them with. They are gradually rising into wealth and intelligence; and unless the system to which they have hitherto been subject be changed, will, ere very long, make themselves heard and felt in a mode which will be as disagreeable to the English in India as that experienced by the European Spaniards in South America from those who were descended from the former settlers in that country.

The East Indians have their faults and follies as well as the rest of mankind. One of the greatest, and that which more or

less pervades their whole body, is an over-sensitiveness on the subject of their extraction, which produces an attempt to conceal it as much as possible, with an affectation of despising the natives, and assuming the style and tone of Englishmen: to say nothing of the still more absurd idea so general among them, that they have *all* a claim to the title of *gentlemen*, and to the rights and privileges of such, even though they should by birth, manners, and education, be little above the rank of the labouring classes in England. Another point, in some degree connected with these, is the designation by which they are to be addressed; and on this subject a great deal of angry discussion has been wasted. After going through a long list, the majority seem, for the present, to have fixed on that of "East Indians" as the most preferable. Be it so. If they prefer one name rather than another, common sense and civility should induce others to adopt it¹.

But the East Indians would prove their own sense much more by pursuing a different line of conduct. Instead of being ashamed of their situation, let them at once avow their origin, and place their claims to respectability and consideration on a more solid foundation than that on which they have hitherto attempted to raise it,—individual character, and those intellectual and moral qualifications which can alone render any class of men really estimable, and which will be sure to make their way, sooner or later. Among them are to be found all ranks and all characters. Those who have the misfortune of illegitimate birth, if they have received the education of gentlemen, and conduct themselves as

* The East Indians are by no means singular in attaching great importance to a name, or even its pronunciation. I knew in England a Mr. Gullet who chose to be called "Gullette;" a Mr. Waddell, who insisted on having his name pronounced "Wa-delle." "What is a name?" has been often said. Yet, perhaps, on few subjects have men or nations been at times more sensitive, particularly when it involves any association tending to lower those to whom it is applied. Almost all the appellations which belong to different classes of individuals in all countries, were at first given or taken either in derision

on the one hand, or to mark a sense of self-respect on the other, of which innumerable instances might be adduced. There is little use in arguing or in attempting to account for absurdity or fancy. Those who in England would be designated "clerks," think it more dignified in this country to be styled "writers," and "assistants." In America a servant chooses to be called a "help," &c. If a man's vanity is tickled in a matter which concerns him alone, good sense and good feeling should induce others to gratify him therein.

such, will not fail in the end to receive that consideration to which they are entitled ; but many have not this *stigma* (as it is called, perhaps unjustly and unwisely, for it is treating misfortune as a fault) ; a large proportion have, for two or three generations, been born in wedlock, and stand in no respect in an inferior point of view on this score. Others, whose circumstances have not given them the chance of rising to the sphere of gentlemen, must be content to do their duty in that state of life in which their lot has been placed ; and must work for their bread as clerks, mechanics, shopkeepers, or even labourers ; and they should keep in mind, that, however humble his sphere, it is in the power of every one to command the respect of those in whose society he lives, whether he be born a peasant or a prince.

Much illiberal and uncharitable conduct is, undoubtedly, displayed towards them by the English. It is the fashion, generally speaking, to affect to look down upon them. In one of the King's regiments, the officers professed not to allow them to be invited to their mess ; and the colonel allowed his soldiers to keep native mistresses, while he endeavoured to prevent their marrying East Indian women. At one time East Indian ladies were excluded from the Calcutta Government-house list ; and this is, or was till very lately, the case at Madras. All this is extremely illiberal ; and although the East Indians may thank themselves, and the absurd pretensions which many of them cannot support, for much of this behaviour of the English towards them, it does not form any excuse or palliation for the conduct of the latter. There is, too, a considerable share of the meanness which too many of the English exhibit towards the natives, apparent in their treatment of the East Indians. Prejudice and dislike seem to rise and fall very much in proportion to depth of colour and wealth. The fairer and richer the East Indians are, the more likely they are to receive civility ; and one of this class whose circumstances will allow him to give good entertainments, will not find the English (in Bengal at least) at all backward in partaking of them. Some of the English endeavour to find an excuse for their conduct, by asserting that the East Indians are, in various points, inferior to themselves. I have often heard some go so far as to say, that it

was impossible for an East Indian to prevent his origin being perceived; and have been amused, meanwhile, to find some of these sharp-sighted people unknowingly associating with East Indians. The truth is, that provided the East Indian be as fair, there will, generally, be no perceptible difference between him and an Englishman, where the education has been the same.

That the majority of the East Indians are inferior, in many respects, to the English, is probable enough; but between what classes is the comparison drawn? The latter are, as has been before observed, almost all born and educated gentlemen: the former are an indiscriminate class, comprising every description. In every nation the gentlemen, by which I mean those elevated in thought, refinement, and morality, must be "the few:" the majority must be "the many" who want these advantages. What is the treatment and education of too many of the East Indians? Neglected, in the first instance, by their English parents; perhaps sent to an inferior school in Calcutta, some hundred miles distance from them, without a soul who has any interest in them to superintend or guide them; and when grown up, turned adrift to seek some writer's or clerk's employment, on a salary barely enough to support existence, and insufficient to allow them even the few luxuries or comforts to which they may have been accustomed, and obliged to mix in inferior society, with scarcely a chance of rising in the world. Is it surprising that men thus treated do not grow up very accomplished, or possess the best principles?

I do not mean to assert that all are at this disadvantage; some have not only been educated as gentlemen, but have been enabled to support themselves as such, when arrived at man's estate; but it is certainly true with respect to the greater number of those who are immediately descended from English fathers. It is probable, that were the English, or any other nation, treated in the same neglected way, they would not be at all better than the worst that *is said* of the East Indians.

But while many suffer from neglect, others again feel the effects of the ill-judged, although well meant, mode adopted by parents in the education of their East Indian children, which tends in the

end to lower the character of the latter: I mean, that of bringing them up in a style and rank in life which they have no means of enabling them to support hereafter. I could myself point out several individuals who have been sent to England, placed at the first schools, and on whose education no expense has been spared. During their residence in England they were patronized by the relations of their father, and mixed in very good society, where they were treated in every respect as equals. By the time they were grown up, their fathers were about to return home on limited incomes; and finding that it would be difficult, or perhaps impossible, to provide for their sons in England, sent for them to India, where the best situation they could procure for them was that of clerk in an office, or assistant to a merchant or indigo planter. The custom of society in India precludes people in these situations from mixing socially with the gentlemen of a station. It has so happened, that in some of the instances to which I allude, at the places where those individuals were settled, there were one or two among the civil and military residents with whom they had been on a friendly footing in England. Yet here the acquaintance drops; and the East Indian gentlemen, who have, perhaps, more title to the appellation, according to the definition above given, than half those who enjoy it, find themselves not only excluded from that sort of society with which they had been accustomed to mix in England, but treated with contumely on account of their origin. The misfortune is, that in India, out of the Presidency stations, there is no regular gradation of rank; and people thus situated, to avoid leading a solitary life, are obliged to associate with shop-keepers, sergeants, and clerks, who, however respectable in their line, have no pretensions to be gentlemen. Is it astonishing that men so situated should degenerate? or that some of them should, in the end, lose their self-respect, grow, as it were, desperate, and finally become disreputable?

It seems extraordinary that people who must know that they have not the means of enabling their sons to support themselves in the rank of gentlemen, should educate them as such. It would be much better were they to give them an education more suited to the moderate means they are likely to possess hereafter, and teach

them to look forward to pursuing their career in a lower sphere. They would not, then, raise expectations greater than there is a probability of realizing: their sons would not have any cause of complaint against their parents, and would (or might) be very good members of society, and as useful in their station as any others. This would surely be better than bringing them to a sort of half-and-half gentility, and exciting hopes which are almost sure to meet with disappointment.

The policy of the conduct hitherto adopted by Government towards the East Indians is very questionable, and the injustice of it great. They have been systematically excluded from almost every mode of employment; they have been made to undergo the disabilities of both English and native, and at the same time have not been allowed to enjoy the advantages of either. It is not very long since they were pronounced entitled to hold land in India; and yet practically in this respect they are treated very much as Englishmen, by having numerous annoyances given them by the Government functionaries and local officers, the object being to deter them as much as possible from possessing lands, as they have thereby become "troublesome" to the constituted authorities in the mode described already, in treating of the English settlers, in No. VI. of this series. In the employment of Government, the only posts open to them were those of drummers in the army, or clerks to copy English letters in civil offices. All other situations in the courts of justice, police, or revenue, however humble, were closed against them. To judge by the conduct of Government, it seems to have been its intention to prevent their acquiring either wealth, intelligence, or influence.

In case this paper should meet the eye of an English reader, it seems requisite to make a few remarks on the state of society in India. It should be premised that the rich and respectable natives have been, by the operation of our system, almost all ruined; and that the natives of all classes are so completely looked down upon, that when an Englishman talks of Indian society, the former are completely out of the question: he is to be understood as alluding exclusively to the English residents in

India. But beyond the Presidency towns of Calcutta, Madras, and Bombay, society consists of two classes, known by the cant names of "gentlemen," and "kranny society." The former include the "covenanted" civilians and the commissioned military officers, with a very few merchants (perhaps on an average, throughout India, not above two or three in a station); the latter is composed of clerks, "assistants" to merchants, conductors (a sort of warrant-officers for taking care of military stores), sergeants, and shop-keepers. There is no other, and no medium or gradation between the two; and the distinction between them is almost as great as that of Brahmin and Pariah. In England a clerk in a Government office may, by ability, good conduct, and good fortune, rise to situations of rank and fortune, and even that of prime-minister is not shut against him*; but in India, with the sole exception of an assistant to a merchant, who may be a merchant himself in time, and *possibly*, by going to a different part in the country, "get into society," all the rest must remain as they are. Since the days of Clive, there has not, I believe, in the Company's army, been an instance of a commission being given in the ranks; and a clerk in a Government office, whatever may be his abilities, can never rise beyond his present situation.

But even if the system adopted by Government were politic, setting aside its injustice, the day has gone by when it might have succeeded, and it is worth while endeavouring to ascertain the reasons for such a system. It probably had its origin in the same cause which produced a dread of colonization, viz. an anticipation by the Court of Directors of the exposure of the mode of government pursued in India, and a fear that when East Indians should be a tolerably numerous and powerful class, the necessity of employing them in some situations in India would diminish their patronage at home, and lessen their ability to provide for their own relations and friends; for the appointment of East Indians must necessarily rest with the local governments. Every attempt has, accordingly, been made to crush and keep

* Mr. Canning was, strictly speaking, but a clerk on first entering life. Some of our ambassadors began their career as clerks in Government offices.

them down, but in vain. They are rapidly increasing in numbers, and, though slowly, are making advances in education and wealth; and, consequently, in power, and the means of acquiring it. The perception of this has induced thinking men to consider what is to become of them, and what is to be the result of the system hitherto in action towards them. Many propositions have been made with a view to dispose of them. Some have proposed to form an "East Indian" regiment, and Government have been called upon, both by themselves and others, to adopt some measures for providing for them. But temporary and *patch-work* expedients will never answer: we must go to the root of the evil, look it boldly in the face, and view it fairly in all its bearings. A regiment would include but a small portion of their numbers; and, besides, this plan and all the others which have been proposed hitherto are fundamentally wrong in this,—*they are exclusive*; and any project on such a basis must be unjust to some party. Government cannot and ought not to do any thing for them *specifically*; but what Government *can* and *ought* to do is, to abolish all disabilities, and at once place the East Indians on a footing with either its native or English subjects: it matters little which, since both will be on an equality ere long; or, if otherwise, it will be the natives who will be uppermost, the catastrophe being brought on by the treatment, *if continued*, which they may have hitherto received from their English rulers. More than this the sensible and respectable portion of the East Indians do not desire, and this they have a right to expect.

It is impossible that at present they can feel any attachment to the English. Their conduct towards the East Indians would naturally engender a very opposite feeling, and it may be expected that this will discover itself on the first favourable opportunity. Intimations of their dislike have already begun to appear. They are gradually separating themselves and their interests from those of the English. Of late years societies have been formed among them for the express purpose of promoting their interests distinct from ours: in some, the intrusion of an Englishman is looked upon with jealousy; and it is by no means improbable, that if they are kept in their present state, having nothing to hope from

the English, in the event of any grand commotions, sufficient to shake our power, by far the greater number would join against us, in the hope of raising themselves from that state of degradation in which they have hitherto existed

It is often urged in reply to such a supposition, that the East Indians would not be sufficiently respected by, or possess influence enough among, the natives, to enable them to improve their condition. If it were so, a nation that feels itself at the bottom of the wheel will, in the hope of rising, be driven to fearful experiments, and dreadful extremities. But in this respect the natives of India are far less illiberal than the English; they do not despise the East Indians as a class, but behave to, and consider them individually, according to each man's rank in society, wealth, education, and behaviour. I could point out numerous instances in proof of this assertion; but the wish which has all along actuated me to refrain from personalities, either for good or bad examples, prevents my doing so: many will be familiar to most of my readers.

The catastrophe supposed above is not far-fetched or impossible. We have an instance before us in the South American States, which affords a very apposite illustration. The Spanish population, whether descended from Europeans by both parents, or of a mixed race, received from the European Spaniards precisely the same treatment that the East Indians, and English born in the country, meet with from the European-English in India. They were treated with contumely, made to feel that they were so, and were systematically excluded from every appointment under Government. What has been their consequent and natural conduct? *Revolution*, as soon as they were strong enough to effect it; accompanied by a complete turning of the tables on their former European rulers. *They* are now excluded, and treated with contempt in almost all the states: in some, every European Spaniard has been actually forced to leave the country; and, in many instances, they have been prohibited from taking with them their wives and families, if they had married natives of the country, although the latter may have been pure of European extraction. (See the accounts of Captain

Basil Hall and others, corroborated by every one who has been there.)

Heaven avert such a calamity from British India ! but it is no more than we must be prepared to expect, if the old system be continued. No nation, whether of natives, or of East Indians, will submit, any longer than the want of power obliges them, to be ruled by a few hundred strangers, between whom and themselves there does not exist any one common feeling of sympathy, or bond of connexion ; and by whom they are taxed to the uttermost, and shut out from every office of respectability. But, humanly speaking, it rests with those in power to hasten or avert such a catastrophe. The Home Government must learn to extend their views beyond the prospect of immediate advantage to themselves and their connexions ; for the day is come when the welfare of India, and the stability of their empire, renders it imperative that they should consent to sacrifice some part of their patronage, and allow their Indian subjects to participate in the government of the country. The present Local Government has broken the ice, and has set a noble example in throwing down the barrier of selfish and illiberal policy, with which every thing connected with our Indian administration has been hitherto fenced. Let it extend the system, and treat all parties with no more than justice ; instead of having a numerous body opposed to it, and wishing the downfall of the British Indian Empire, there will be a powerful class who will form the intermediate link which is now wanting between the English and the natives, and whose energies would, in the event of any serious commotion, be exerted to support the former, for the simple reason, that they would have more to hope for under their rule than they could expect from any native government.

December, 1832.

No. XIII.

ON THE GOVERNMENT OF BRITISH INDIA.

IT being my intention, as time and opportunity permit, to enter at length into the detail of the administration of the Government of British India, and to examine the operation of the system established in the courts of civil justice, revenue, and police, it seems advisable to offer a few preliminary observations on its general principles and most remarkable features. In this attempt it is feared much will be repeated, which has already been discussed in my former numbers; but as this is, in some measure, unavoidable, where the same system and its proceedings have so wide an influence, and are so intimately connected with each other, it is hoped allowance will be made for it.

The chief object of the British administration in this country, ever since its establishment, would appear to have been, that of the exaltation of the few upon the depression of the many, that is, that the whole population of India should, by every possible means, be rendered subservient to their English rulers, and contribute exclusively to their benefit. This seems to be, in some degree, the natural result of the mode in which our empire here has been acquired and has been maintained. A company of merchants having obtained permission to trade in India, have become sovereigns of a large portion of territory; and their attention has been directed, in the true mercantile spirit, to realize as large a profit as possible on the capital embarked. The method of obtaining this was to monopolize every branch of trade that could be made productive to themselves, and to employ the least number of labourers, at the lowest rate of wages*. For this purpose, it was, of course, politic, to send as few servants to India as could possi-

* This was the system at first. The civil servants received salaries inadequate for the subsistence of a person of a respectable family. About the years 1760 and 1770 a writer's pay was 84 rupees per month; and house-rent was, at that time, so dear in Calcutta, that for a small house of two rooms 100 rupees per month was often paid. Peculation was the natural consequence. Lord Cornwallis had the wisdom to put matters on a better footing — N.B. In round numbers a rupee per month is a pound sterling per annum.

bly manage their concerns, to prevent their making any permanent settlement there, and to throw every impediment in the way of all other Europeans who wished to visit the country from any motives. The instructions issued by the Court of Directors to their servants have been a continued theme to make large remittances home, and so long as these instructions were fulfilled, little inquiry was instituted as to the means by which they were obtained.

In carrying this object into effect, the chief results seem to have been the following.

1st. That a succession of individuals to manage the affairs of India are sent out, all, at the beginning of their career, totally ignorant of the language and customs of the country, and who either die or return home just as they have acquired some knowledge of the subject.

2nd. A complete exclusion of the natives of India from all share in the government of the country, as far as this was possible: every situation of emolument or respectability having been closed against them, while those only were open to their attainment which Europeans did not consider worthy their acceptance, from the trifling salaries attached to them, and because a want of knowledge of the country language rendered them incapable of performing the duties.

3rd. The extraordinary idea that the natives are not fit to be trusted, and are almost incapable of performing any but the most inferior duties. This must have originated chiefly in the above-mentioned object of sending money to England, which led the English to discard the employment of all natives of respectability, to whom it would be requisite to give a liberal salary; but it has been so strengthened by custom that it had almost become an established belief which scarcely any one dared to controvert: coupled with this, and almost naturally springing from it, was an overweening idea of our own superiority in every possible respect. Insulated instances of misconduct on the part of natives may doubtless be quoted, but the system hitherto adopted towards the people of India has never been such as to allow of a judgment being formed of the qualifications of the natives for

situations of trust and responsibility. When the experiment shall have been fairly tried, and when our knowledge of ourselves shall be increased, so as to afford means for making a just comparison, it will probably be found that the scale in which we have placed ourselves is as much too high as that of the natives is too low.

The result of all this is (as I have before observed,) a total want of sympathy between the governors and the governed. The former have been led practically to consider the latter as existing exclusively almost for their benefit; while scarcely an attempt has been made to promote any permanent improvement of the country or of the character of its inhabitants; which, considering the opportunities afforded, and the power given to effect both, is not too strong an expression. The consequence has been, (indeed it would have been a miracle had it been otherwise,) the establishment of a system of misrule, oppression, and injustice, towards the people of India; and, to crown the whole, they have been made to feel their situation the more galling from the arrogant, supercilious, and insulting conduct which they experience from their rulers as individuals.

These assertions will probably startle many who have heard so much of native misgovernment, and the blessings of being subject to British authority; but sufficient detail will hereafter be given to show that they are not without foundation. I have before remarked that the old system could not have continued much longer; it is high time that the real state of the case should be laid open,—that those who have the will and the power should, before it be too late, devise and apply a remedy. Some attempt towards this object will be made in these papers, but the chief view with which they are written is, to draw the attention of men of ability to the subject, who have leisure to give it full consideration, and power to effect the improvements requisite.

It here becomes necessary to make a few observations which should be borne in mind by those who deem these papers worthy of perusal, for they will explain many future remarks which would otherwise seem at variance with what is above stated. Mill, in his admirable history, has observed, that in good inten-

tions towards the people under their authority, the Court of Directors have not been surpassed by any government. This is true; but he should have added that there was an unalterable proviso, that these good intentions should not be put in practice so far as to interfere with the main feature above alluded to; that direct and immediate benefit to themselves, their friends, and constituents, should be the primary object in retaining their Indian possessions. But they did even more than express good intentions; they have issued many excellent orders, and called for reports as to the result of these; and they have closely scrutinized the conduct of the Local Government. Moreover, the outline of the system of administration established in India, or, at least, to speak within the limits of my own observation, in the Bengal presidency, is by no means bad: on the contrary, it contains numerous excellent points; and is infinitely better suited to the people of India than the English laws could be. I would not go quite so far as Sir Joshua Child, the chairman of the Court of Directors, who about the year 1693 wrote to the governor of Bombay, "That he expected his orders to be his rules, and not the laws of England, which were a heap of nonsense, compiled by a few ignorant country gentlemen, who hardly knew how to make laws for the good of their own private families, much less for the regulating of companies and foreign commerce;" but I would state, that the regulations of the Bengal government contain, on the whole, principles infinitely better calculated to promote justice and good government, and above all, infinitely more consonant to common sense, than could be extracted from the whole mass of English law. This opinion would, of course, meet with contempt from English lawyers, but I put them out of the question, with the exception of some few extraordinary individuals; because, from the very commencement of their legal education, the principle is instilled into them, that the English law is the perfection of human wisdom; but it is probable that any other intelligent and unprejudiced men, who should fairly examine the two systems, would arrive at the same conclusion.

What then, the question will naturally arise, is the reason of

the misrule, oppression, and injustice, so confidently asserted, under which the natives of India suffer? The deficiency of any provision for the proper administration of the laws.

Laws will not execute themselves; and without such provision the best devised system must fail of its object. The rulers of India may be compared to an architect who has been intrusted with the proceeds of an estate for the purpose of building a good house for the tenants, and who has erected a substantial shell on a good plan, but who has afterwards appropriated the money received to his own purposes, instead of proceeding to complete it by flooring the rooms, fitting doors and windows to keep out the weather and thieves, and adding those finished parts, without which the inmates of the house could not possibly reside in it with any comfort or security.

This is the reason of the great want of justice so truly complained of: and although it may be new to some of my readers, many of our rulers are fully aware of it and would be willing to remedy the defect, were they not prevented by the all-absorbing idea of "surplus revenue" and "remittances home." During the past few years, however, our governors seem to have become convinced that some progress must be made in finishing the house, to prevent the possible and even probable chance of the shell itself being seriously injured. Some progress has been made already; and when the whole shall have been completed, and some alterations and additions made, particularly if the master of the house will teach his servants who have the charge of cleaning it and keeping it in repair and order, to refrain from insulting the tenants who occupy it, and to treat them with civility, we shall probably find it as well suited to the climate, and wants and customs of the people, as any that could have been erected. Or, to throw aside metaphor, if the British Indian government will adopt a similar course, their subjects, whether European or native, will enjoy as good a government as any people in the world. Such at least is not only my own opinion, but that of many others who have fairly examined the subject, particularly merchants, who have suffered by the hitherto existing maladministration.

Having premised so much on the general principles of my subject, let us now examine it a little in detail, and see if the result of our inquiries will not in a great measure justify the foregoing observations.

The extent of the different districts into which the country was necessarily divided, and the magnitude of the duty devolving upon each individual in charge of a district, was one of the first consequences of the system of which *gain* was the primary object. Let me again refer to the comparison by which I at first attempted to illustrate the operation of the British rule in India,—that of the supposed conquest and occupation of the British Isles by a company of African merchants. (see No. II.) Suppose that in the county of York, or in the principality of Wales, a single African was stationed as judge and magistrate. As judge he is to decide all civil suits of whatever nature, of which the amount in cash does not exceed ten thousand pounds; in addition to which, he has to issue all orders relative to the arrest of debtors, the distress and sale of property, and generally to conduct all the process necessary in the execution of his decrees. As magistrate, he is to perform all the duties which are now carried on by the numerous justices of the peace and the quarter sessions; besides being expected to give his attention to innumerable petty matters, which in England are left to the care of parish and other inferior local officers. He is also the superintendent of a gaol, containing from four hundred to a thousand convicts, besides other prisoners, civil as well as criminal; is required to superintend the labour of these convicts; and, without a single engineer, or even surveyor, to assist him, is expected to keep in repair the roads of the district. To aid him he has a number of native constables and police officers; and sometimes one or two inexperienced newly-imported African assistants, (I am continuing the above illustration,) but occasionally is left without the latter; and moreover, is strictly prohibited, unless with special leave granted by the superior court under peculiar circumstances, from leaving the head-quarters of his district; being thereby prevented from making any local inquiries, which would greatly increase his knowledge of the people and country. So

much for the provision for the distribution of civil justice, and for the performance of the magisterial and police duties; for this is the system which has been established in India,—a country, let it be observed, where, without having recourse to the supposition of a greater spirit of litigation among them, the customs of the people are such, that, in a given population, there will arise a greater number of causes than would occur in England.

Let us now consider the arrangement for conducting the revenue duties, of which many people, even in this country, have a very erroneous idea, being too much inclined to refer to the *taxes* and *tax-gathering* in England.

To understand the duties of a collector of revenue in India, let us suppose that in England the present owners of estates had ceased to exist, and that the different farmers paid their rent direct to Government; that each farm, instead of being in the exclusive possession of the tenant for the time being, who employed mere day-labourers to cultivate it, was subdivided into numerous small lots held by people under a variety of tenures. Some of them being called proprietors, who cultivated their own land; some being designated owners of fields, the right of cultivation being vested in others; some claiming portions of ground, the trees growing on which were the property of others; with a variety of other tenures which may hereafter be explained,—each of these different individuals possessing his own plough and cattle*. Suppose that, with very few exceptions, the whole of them were so poor, that periodical advances of cash and seed were necessary to enable them to sow almost every successive crop; that written leases and agreements were almost unknown; and that it was the practice for the head farmer to take the rent from the subordinate cultivators, in some cases in *kind*, in others in *cash*, without any determinate rule; each individual virtually acting according to his own pleasure, thus giving rise to innumerable disputes in the settlement of accounts and the value of produce. Suppose that in each farm there was an hereditary

* This great variety of tenures has been fostered, or I might say introduced by the English, owing to their misunderstanding the customs of the people.

village writer to keep the intricate accounts, a blacksmith to repair the agricultural implements, a watchman, a sweeper, with several others, whose services were all remunerated by a *percentage* on the rent, or a portion of grain at harvest-time,—the rate by no means clearly defined, and varying often in neighbouring parishes. Lastly, suppose the poverty of the whole to be such, that it requires an army of native, armed revenue officers, with constant and unremitting labour on the part of all concerned in realizing it, to collect the Government revenue. A farm so constituted and cultivated would be a tolerable representation of an Indian village (*guon* or *muozeh*;) the *zumeendar* is the head farmer, the *ryots* the subordinate cultivators, the *putwarree* the village writer, &c., &c. Suppose the whole of England in this condition, and that it were divided into districts as large as Yorkshire or Wales, and that each district was placed under the superintendence of an African collector, sometimes with one assistant, sometimes without any, whose duty it was to superintend the whole of the above proceedings, to take care that, in the multiplicity of those intricate transactions, no extortion was practised, and no improper proceedings occurred; in addition to which he had to assess the rent on the different farms, taking care that no frauds were practised to evade the Government demands, or, in plain English, that as much as possible was screwed out of the unfortunate people, and was expected to prevent his army of native armed revenue officers and overseers from abusing their authority; the English government not professedly allowing any extortioners but their own.

Such is the general outline of the Revenue System of India, and the duty of a collector within that part of the British territory into which the permanent settlement has not been introduced. I would confidently submit the accuracy of the description, both of this and of the arrangement for the performance of the civil and magisterial duties, to the test of impartial inquiry. The extent of the districts placed under the charge of an individual is not in the least exaggerated, as will be shown by the following extracts from official documents published in England. The area of the Bengal presidency, exclusive of very recent acqui-

tions, is 220,000 square miles, about three times the size of Great Britain. It contains 234,000 towns and villages, and a computed population of about fifty millions. There are district British judges, forty-nine. Each judge has, therefore, on an average, 4,489 square miles of territory (or a tract of country seventy miles long by rather more than sixty broad), 4,775 towns and villages, and a population of above a million, subject to him. But these are not all equally divided. Dinagepoor contains 6,000 square miles, above 12,000 towns and villages, and a population exceeding 2,300,000. Rajeshahye nearly 4,000 square miles, more than 4,000,000 people. double the population of Scotland. The collectors, including deputies with independent jurisdiction, amount to sixty-two: so that, consequently, the tracts of country subject to the authority of each is not quite so large. The jurisdiction of each police magistrate, including the joint magistrates, would average about the same as that of the collectors. I would beg to refer to my paper No. II., in which allusion is made to the size of several of the districts, and it is to be remarked, that in few of the districts is the station of the public functionary centrically situated: in some it is on the very verge of the province subject to his authority. It should also be observed, that the official documents from which the above are taken, were published before the late arrangements for the improvement of the administration of justice were projected; but although a beginning has been made, little progress, comparatively speaking, has as yet been achieved. The plan on which the courts of appeal and circuit, superintendencies of police, boards of revenue, and other superior authorities, have been arranged, is upon the same limited scale. There is by no means a sufficiency of public officers to perform the duties which are expected from them.

This is the provision made for affording protection and distributing justice to the people of India,—a people who are almost universally accused (although some few raise their voices to say, *unjustly*), by those who are supposed to understand their character, of litigiousness. Were it not so serious a question, affecting the security of the property and life of so many millions, it would really be laughable that any one could be found to imagine it

sufficient. Yet there have been many,—men too of supposed ability and acquaintance with Indian affairs,—who have asserted the excellence of the British administration in this country, and its vast superiority over the native governments. It is difficult to attribute such assertions to any other cause than vanity and ignorance of the real state of the country. Let those who doubt this, go to any court in India, and see the scores, ay hundreds, who are in attendance, crying out that they have been waiting days, weeks, months, even years, in a vain hope of obtaining justice. Let them question each individual, and examine his case; they will find very few who exaggerate beyond the naked truth. How should it be otherwise, where every court in the country is burdened with from three to ten times the work which it is possible for human power to execute; yet, as if the different functionaries had not enough already to perform, we see, even in the present day, distinct offices united, and additional duties heaped on the public officers.

It will probably be asked, If this be a true representation of the state of affairs, how can Government or the Court of Directors be entitled to the praise of even good intentions? I must again advert to the principles on which the British administration in India is founded. Neither the Local Government nor the Court of Directors have any wish that their subjects should be misgoverned; on the contrary, they would be well pleased that they should have justice. Has there not then been found, in so long a period, any individual with sufficient public spirit to represent the state of things to the Government? Often and often has it been represented,—nay, more,—the evil has been frequently acknowledged; but the plea in bar of any improvement has as constantly been, that the finances of the country will not admit of it. In plain language, that “surplus revenue” for the Government, and consequent (the connexion will be hereafter explained,) fortunes to individuals, must be the primary object; with these points in view, if any plan could be devised to better the condition of the people, Government will be happy to attend to it; but if it trenches on the profits of the estate, it must be postponed to a future season.

February 10, 1833.

No. XIV.

ON THE GOVERNMENT OF BRITISH INDIA

HAVING endeavoured to describe the general system upon which the British government was established in India, and the causes which led to the introduction of that system, let us now consider more minutely some of the results produced by it, and the consequent effects upon those under their influence, both Europeans and the natives of the country.

To begin with the first:—One principal point was to employ as few European officers as possible to conduct the affairs of the Government, and to prevent them from establishing themselves permanently in the country. The Company's servants were from the beginning treated *en Suisse*; and (like those foreign mercenaries employed by the different European governments,) as long as they remained in India, and enjoyed health sufficient to perform their work, they received their pay; but when private business or illness rendered it necessary for them to return home, all emolument ceased from the moment of their departure. In this respect it may be said that this Government was not worse than others, and that a master is not bound to pay his servant after he ceases to obtain the benefit of his service. I imagine, however, that no government in the world will be found to offer a parallel to that of India, which, with the exception of a few petty situations, not worth the acceptance of an European, employed for its officers, exclusively, individuals brought from a distance of nearly half the globe, without affording them the means of finding their way thither. Besides, there are in the civilized portion of the world few governments who do not make some provision for those who, after long and faithful services, were incapacitated by sickness from exertion, or in certain cases for their families, in the event of their death. But a very different course was adopted by the governors of British India. However long and faithfully a man might have served, and whatever might be the cause of his inability to work any longer,

from the moment that he was not useful, he had nothing more to expect from Government: nay more, in the event of his death, his family were obliged to leave the country, and return home at their own expense. I do not mean to say that they ever were, or even would have been, actually *forced* to leave India, but the object was pretty well secured by arrangements on the part of Government which rendered it quite impossible that the children should be provided for in any way in the country. Such was the plan pursued by Government for a considerable period: afterwards a more liberal course was adopted towards their military officers, as it has lately been extended to their civil servants. Nor do I mean to charge them with intentional illiberality or unkindness; on the contrary, numerous instances of an opposite conduct might be quoted. Besides, they may observe, that as no one was compelled to enter the service, and all knew the conditions it involved, those who did engage in their employ had no right to complain. The case in question was indeed only one of the natural consequences of the all-absorbing idea of realizing as much as possible for themselves from their Indian possessions. The effect, however, on their European servants was such, that finding they were treated like mercenaries, the majority served in the same spirit; and the wonder is, not that so few should have acted upon a better principle, but that *any* should have been found to do more than they were actually obliged. As a matter of course, their chief object was to save something out of their allowances as a future provision to retire upon when they should be worn out; and as long as their authorized emoluments were on too low a scale to admit of this, little scruple was shown in resorting to corrupt means of realizing a fortune. Since the Government have had a truer sense of their own interest, and raised the pay of their servants to a proper standard, corruption among them has been almost checked; but India bitterly feels the evil of taxation to the highest point, while the money taken from it, instead of being returned, is hoarded up to be carried away to a distant land.

Another, and, perhaps, the greatest, evil consequent upon the system in question, is the constant change of masters to which

the people of India are subject, none of whom have any permanent interest in the welfare of the country ; but whose sole object, in too many instances, is to gain a good name with Government, by extorting the greatest revenue from their subjects, and thereby enable them to make a large fortune for themselves: and the above statement will afford the explanation, why large fortunes for the servants of Government are a natural result of the plan pursued in India. As long as a succession of people are sent out here, to remain only for a limited period, with no future means of provision but what they are enabled to save out of their salaries*,—and who, on their return to England, after so long an absence, must have to form new acquaintances and new connexions, and, as far as relates to the interest of their families, begin as it were the world again,—it was absolutely necessary, to induce persons of respectability to enter the service, to give high allowances: whereas, had encouragement been afforded them to visit India with a view of establishing themselves there, and the prospect been visible of a future maintenance for their families in the country, a much lower scale of emolument would have been sufficient. But this would have been unsuitable to the views of the East India Company in the mode above alluded to; that is, by diminishing their patronage, and exposing the system of government established in India. The injustice and extortion to which the natives were subject was a point of minor importance compared with that of large profit to their rulers.

Let us now consider the effects of this system upon the people of India; and lamentable indeed is it to perceive how injurious it has proved, both to their feelings towards the English and to their own character. Year after year they witness the arrival of fresh importations of young men, ignorant of their language, customs, and character; careless in paying any regard to their prejudices; entertaining a high idea of themselves, and too prone to look down on the natives as an inferior race of beings, and whose chief object is to acquire a fortune on which they may return to their native land. There are undoubtedly exceptions, but such is the general character of the majority of those in the

* The pension for the civil servants has only been lately established.

civil and military services,—at least at the beginning of their career; and a great many retain the same impressions to the end of their sojourn. Every thing conspires to foster such feelings. They perceive the natives to be considered by Government as an inferior race,—at least so far as they can judge by their exclusion from all offices of respectability; they are constantly changed from one part of the country to another; so that they have hardly time, in any one place, to become acquainted with individuals, and ascertain who among them are worthy of being treated with some consideration; besides which, whether false or true, there is an undoubted impression among the Government servants, both here and in England, that a man who treats the natives with much civility and attention will be in bad odour with his Government. If this be true, a more damnable sentence on the system of government could hardly be pronounced; if false, it is high time that some measures should be adopted to correct the idea.

These circumstances operate in leading the European servants of Government to form a society among themselves, and, comparatively speaking, to cultivate little or no acquaintance with even the most respectable natives by whom they are surrounded. Those who arrive in the country yearly to supply the place of the dead and the absent, naturally follow the same example, from a conviction that those who have been so long in India, must know what conduct is best to adopt. Is it, therefore, astonishing that so little progress, or even so little attempt, has been made at conciliating the natives? There have been, however, some redeeming instances of men who have thought and felt for themselves, and whose early feelings of benevolence and rectitude have not been warped by the evil example or prejudices of others. They alone have rescued the English name from the almost universal detestation in which it is held by the natives.

But a solitary individual, or even several, can do little to correct the impression formed by the conduct of the mass, especially as the short time which is usually spent in any one part of India by each, gives so little opportunity for good intentions or good beginnings to mature, that it is almost worse for the natives

than if they had never been tantalized by kind treatment, from the contrast they too often experience in the change of a master. It is miserable up-hill work for these poor people to be eternally struggling with the prejudices, and submitting to the caprices, of the ignorant and inconsiderate; and when they do meet with an individual of sufficient good sense and right feeling to pursue a different mode of treatment, to bid him farewell for ever, and have to begin all over again with new comers! Instead of complaining that India remains stationary and apathetic, under such a state of things, rather let us wonder and admire the patience and perseverance displayed by her children, and the improvements they have made, and are still making, for themselves, with the limited means afforded, and the small encouragement given them. To bring the subject home to an English heart and mind, let us turn our thoughts to our native land, and compare the effects produced by individual example and influence there, with what might have been the case here. Let us imagine a family in England, of wealth and consequence, occupying the seat of their ancestors, surrounded by a numerous neighbourhood of all classes, all more or less dependent upon them for the pleasures of society, the assistance of their power or influence, or the means of livelihood. Let us represent to ourselves the master of this family in his different vocations. As a country gentleman, overlooking his estate, promoting the improvement of husbandry and agriculture, superintending the roads, public buildings, &c. As a magistrate, redressing wrongs, reconciling differences, reforming abuses, and executing justice. As a neighbour, opening his house, and by his hospitality and liberality affording the means of social intercourse to his neighbours; all the different members of his family in their several spheres, contributing their share to the general good. Let one of my readers recollect his own childhood, so spent as one of such a family—his happy country home—his father and his mother, and early friends—the old servants and tenants who surrounded his infancy, and greeted his return from school; and then look at a civilian of rank in this country, and consider the effect which he might and ought to have in his station; only so

much greater in proportion to the greater extent of power he possesses, and the greater degree of subservience and obedience which the natives of India are habituated to pay to authority. Contrast the picture with that of the real state of things here. The upper classes of the natives, who used to occupy the above situations, ruined, and their places supplied by foreigners who keep themselves aloof from the people, and whose chief object is self-interest, and to take as much money as they can to their own country. Alas! how few are sensible of the awful trust held by men of power in this country! How has it been exercised? What account can we give of the "talents" committed to our care? But, although individuals may be blamed, what better can be expected from a system which gives so little encouragement to a better conduct and better principles of action?

Whilst, however, we hope and believe that many would pursue a different conduct, if impediments were removed and inducements offered to stimulate exertion, it must be owned, that at the present moment the majority of those to whom the interests of this country are confided, have hitherto shown little inclination to attempt anything towards its general improvement. Generally speaking, they content themselves with getting through the drudgery of their duties as quickly as possible; and those among them whose minds are cultivated, and who have taste and perseverance for other employments, devote their leisure hours to their own pursuits and amusements. I could mention one man who was fond of the study of botany; another of natural history; a third of geology, &c.—all of them useful and admirable in themselves, and highly praiseworthy, if kept within proper limits; but quite the contrary, as is often the case, if allowed to interfere with duty. In each of the instances above alluded to, (and several others might be added,) the parties openly professed to consider India interesting in no other light than as affording a field to their favourite occupations. Had they enlarged their views, and turned some portion of the activity and industry with which these are followed upon the higher objects which surround them on all sides, what might they not have done? Let, however, I repeat it, the blame be laid to its proper cause, namely,

to that system which prevents those by whose exertions the welfare of India might be promoted, from taking any permanent interest in the country.

We now come to consider the last general principle of the English government before alluded to; namely, the idea that the natives are not fit for any offices of respectability. A stranger unacquainted with our system, the circumstances from which it arose, and the principles on which it was founded, who had read the history of India, and pondered over the many great, able, and just men whose characters are there delineated, should he afterwards visit this land, and, in his progress through the different provinces as a traveller, behold the fine cities it contains, the noble buildings and other works of art which rise up on all sides, the high state of cultivation to which the country has arrived, its immense population, all more or less skilful in the arts and conveniences of life, and then reflect that the whole of this existed in its present state before the British power was known in India, he would feel it difficult to account for an impression so general and deep-rooted among the English, and would naturally ask, if it were just, how is it possible the country could have reached the state of improvement and civilization in which it was known to have been before we obtained a footing in it? It would be difficult to give any satisfactory answer to such a question; but, although not perhaps obvious to a casual observer, the causes from which the impression arose are soon perceptible to any one who examines the subject with a little attention.

The principal seems to have been, that by excluding the natives as much as possible from all share in the administration, there would be a greater provision for the relations and friends of the Court of Directors. To this may be added the extravagant idea which the English chose to entertain of their own superiority in ability, morals, and every good quality. The effect of these two was not only to degrade the native character and render it degenerate, but, in a manner, to perpetuate and reproduce the causes from which it arose. It was hardly possible that the young men who successively arrived, and viewed the existing

state of affairs, should not form the conclusion that they were founded on experience. Should they inquire, they would be told that the incapacity and dishonesty of the people rendered such a system necessary; which observation would probably be supported by some insulated instances of misconduct on their parts, which would pass current for a correct delineation of the character of the whole nation. It is mere triteness to again allude to the difficulty of eradicating early impressions; but in the accounts given of the people of India, this cannot be too much kept in mind, particularly when we consider how much *vanity* has done to prevent a fair appreciation of their character. Many a man who has been struck with the injustice of the conduct of the English government towards the natives, has been checked in his endeavours to bring it to light, and correct it, by the reiterated assertion that they derive such benefits from our rule, that it would be unadvisable to make any alteration in the existing system.

Another evil is that arising from an *exclusive service*, which, with the principles on which the Home Government have hitherto acted, could not be avoided. A certain number of youths are yearly sent to India, selected entirely by interest; who are destined in rotation to fill the highest and most responsible situations. Provided a man be not an absolute idiot, or notoriously corrupt, mere incapacity to perform the duties expected from him in an efficient manner, forms no bar to his promotion. I do not mean to say that the Local Government makes no difference between a stupid and an able person,—no doubt some distinction is occasionally shown. The former may be twelve or fourteen years in attaining to the office of collector or judge, while the latter may receive the appointment in ten,—but this is the whole. Once in the service, a man is provided for life, whatever may be his capacity.

A natural consequence of the youth and inexperience of those who are sent out to this country, all of them being at first more or less ignorant of the characters, customs, and language of the people whom they are appointed to govern, and in whom they have only a temporary interest, is the frequency with which

improper laws are enacted, and the want of stability in any one plan. It is a great complaint, even in England, that laws are often framed in utter ignorance of the subject under consideration; and if this be the case there, what must it be in a country governed, like British India, by a handful of strangers, who have no sympathy or connexion with the people? and how much more difficult must it be for the rulers to discover whether a law operates well or ill. The frequency of changes tends greatly to lessen the confidence of the natives in our government. The universal observation made by them is, that it is impossible for them to know how to act in any case. This may partly be attributed to individuals, (who are continually putting in practice some notions of their own, without inquiring, or even reflecting, whether they are suited to the state of society existing among the natives or not,) and partly to Government, whose acts are, after all, those of a few, and sometimes of one individual.

To give an instance in point:—When the Western Provinces were first subjected to the British rule, innumerable instances occurred of estates being sold for balances due to Government. It was afterwards discovered that a great many of these had been sold without sufficient reason, the sales having been hurried on through underhand means by the native officers of the different collectors, many of whom were themselves the purchasers, although, generally, in the name of one of their relations. A few years ago, Government appointed a special commission to examine the sales, and reverse those which were considered objectionable. Doubtless, the original injustice was great, but the policy of the latter proceeding was very questionable. Those who were obliged to give up the estates, complained with great truth, in many instances, of the injustice of having lands taken from them without any adequate remuneration, after they had expended considerable sums upon their improvement, particularly as they had bought them fairly and openly, and had not been guilty of any participation in the illegal proceedings complained of. They also naturally asked, what faith they could put in any future measures of Government, particularly in sales of property, whether by a collector for arrears of revenue, or by order

of a court in satisfaction of a decree? This proceeding has had considerable effect in lessening the amount realized from property sold since its adoption, from either of the above causes. On the other hand, the original owners received back their estates again in a very apathetic manner; observing, that “probably, ere long, some new commissioner would be established to reverse the measure of the preceding one.”

I do not, however, at present, give a decided opinion on the matter, but merely observe, that it is a fair question, whether it would not have been better to have allowed the original injustice to remain, than, after the lapse of so many years, to shake the credit of Government to the extent which has been done by the reversal. My chief object in alluding to it is, to give an instance of the sudden changes of system to which the natives are liable.

Having dwelt so long on the evils of the plan on which India has been hitherto governed, in conclusion I would advert to the great difficulty which has hitherto existed in the correction of these abuses. This arose from the dislike which Government have all along evinced to be informed that any thing is wrong, which, of course, tends to prevent the evils from being brought to their notice. Swift has observed, that “men have such a natural horror of doing wrong, that they would rather do so than be told of it.” Had the words “being found fault with” been substituted for “doing wrong,” it would probably have been a more correct picture of human nature. At any rate, this feeling has as much effect as the other. However this may be, those who have attempted it, have found it a very difficult task to persuade the British-Indian government to allow that any errors had been committed, and many have had reason to rue the attempt. In some instances it has been successful, but then it has been performed with the greatest tact, caution, and gentleness. Every mode that can be devised must be adopted to soften down the offensive matter; the mildest expressions must be chosen; and, above all, what is shown to be faulty, must, if possible, be attributed, not to *English notions*, or to *English acts*, but “to the remains of the evils of the former native governments and institutions, which are not completely eradi-

cated by the superior enactments and regulations of the British administration." If a man acts and speaks in this manner, he has some chance of being attended to; such at least has been the system hitherto in force. One cannot avoid the inference, that such extreme sensitiveness must be founded on the consciousness that all is not as it should be; the feeling has even extended itself towards the acts of individual Government servants: for one to bring to notice the improper conduct of another, has generally been found a thankless office. In the reports of Government sent home, "the flourishing state of the country under the excellence of the British administration," has hitherto always formed a prominent topic; and any proceeding which should tend in any way to lower the credit of these favourable accounts, is not likely to raise the person who brings it forward in the estimation of Government.

The foregoing is intended merely as an outline sketch of the conduct of the British government in India; of the principles which have given rise to it; and of the general nature of its effects. As to its accuracy or incorrectness, I do not shrink from the test of unprejudiced inquiry. Times, however, are changing, and the present Local Government has encouraged hopes that India may yet rise from her degraded and oppressed situation. May the light which has lately dawned upon this country increase and expand, discovering both to our native subjects and to its English rulers wherein their true interest consists! May the broad line of separation which has hitherto existed, be contracted, and a communication between them be formed by mutual good offices and liberal conduct! While this is the conduct which in our character as a *Christian nation* we are bound to adopt, it is that which *true policy* will equally recommend, to confirm the stability of the British empire in India.

March 10, 1833.

No. XV.

ON THE EXCLUSION OF THE NATIVES OF INDIA FROM A SHARE IN ITS GOVERNMENT.

IN the last two papers, I attempted to sketch an outline of the general features of the British-Indian government. I now proceed to elucidate some points in detail.

The origin of the system which will be discussed in my present number has already been traced ; it has been shown to have had its foundation in the object of realizing as much as possible from the country for the benefit of its rulers, and its extension to have been caused in a measure by its own operation. All natives of respectability having been excluded, and an inferior class of people only employed, on salaries totally inadequate to support a decent subsistence, incapacity and roguery on their part were the natural consequences. Some striking instances of such criminality having been brought to the notice of the British government, instead of investigating the reasons, and ascertaining the true cause, the conclusion seems at once to have been adopted by them, that the natives were unfit to be appointed to any situations of trust, and that European agency must be adopted as much as possible. Had there not been opportunities of making a comparison, this idea would have been the less extraordinary and unpardonable ; but as it was notorious, that so long as the European servants were treated in the same manner, they were as corrupt as any natives could possibly be, it is certainly astonishing that, in the lapse of so many years, so few should have been found to advocate the experiment of a more liberal and just course towards this people, before they were included in so sweeping a sentence of condemnation. The real cause I have already declared to be, the desire of the Court of Directors to provide for as many as possible of their relations and friends, and to have been in a great degree perpetuated by the vanity and self-love of the English, which led them to imagine themselves so infinitely superior to the natives.

I must again request the indulgence of my readers for repetition; the subject is one, as I have before remarked, on which it is scarcely possible to avoid it, and its importance must plead the excuse. There is nothing like bringing things home to our own feelings and associations; and, with this view, let me once again revert to a former paper of this series, (see No. II.) describing the supposed subjection of the British Isles to a company of African merchants; more especially to obviate the objection of exaggeration which has been made to the picture there presented. Those of my readers who are interested in the subject will do well to favour the whole of that paper with a re-perusal.

At the period of our first occupation of the country, a complete system existed for the administration of justice in the civil causes, police, and revenue. There were kazees* (or cauzees) in all the large, and even most of the smaller towns, having also occasionally jurisdiction over small tracts of the adjoining country, who decided civil actions, and who may be designated *district judges*. The zemindars, or landholders, superintended the affairs of the police in the country, much in the same manner that our landed gentry fill the offices of justices of the peace; while in large towns, an officer, under the name of foudjar or kotwall, answered to our paid police-magistrate. For the collection of the revenue, the tuhseeldar, or amil, in each district, corresponded with our "County Receivers-General;" he was also endowed with considerable police powers: and to all these different officers were attached subordinate establishments, very similar to those of sheriff, under-sheriff, constables, and tax-gatherers, in England. In addition to which, there still existed in India institutions resembling those of our feudal system; namely, that in the event of any serious disturbance, the different landholders were bound to summon their retainers and tenants at the call of the amil, to assist him in restoring order and preserving peace.

Such is a true picture of the state of affairs in India when the English first took up their abode here; and it is the more

* Better known in England by the name of *cadi*; though how such a corruption could have crept into the translation of the Arabian Tales it is difficult to conjecture.

important to bear this in mind, because the absence of any provision for the performance of judicial, police, and revenue duties, has been so often asserted, and officially reported, that it has come to be considered, as it were, a mere matter of fact, which no one disputes; and at the present day, with the exception of a very few of the elder civil and military officers, and some of those who have had opportunities of viewing native independent states, none of the English Government servants have ever been in a situation to enable them to become acquainted with the fact.

What were the proceedings of the English government?—to pass over all misconduct of their own functionaries, and to pronounce, after a short period, that the *natives* were so corrupt as to be unfit for any offices of respectability, and at one fell swoop to annihilate the institutions under which India had existed for ages; and under the pretence (and indeed *belief*, for many of them were so ignorant of the state of the country as to think they were really conferring a benefit on the people,) of ameliorating the condition of the natives, and protecting the poor and weak from the oppressions of the rich and powerful, they established the system which I attempted to describe in my two last numbers, and which has not, perhaps, its parallel in the world; a system by which districts as large as Yorkshire or Wales, and containing a population, in one instance, more than double that of Scotland, were delivered over to the government of inexperienced young men, strangers from a distant land, and ignorant of, or but in a slight degree acquainted with, the language and customs of the people they were to rule; whilst the object has been constantly and systematically kept in view to extort as much as possible from those subject to them.

Such has been the plan devised for the improvement of the condition of the people of India under British sway, and which has been extolled as so superior to the former native governments. The consequence has been (as might naturally have been anticipated,) the ruin of the upper classes, and the deterioration of the character of the whole people. Yet the system has had numerous defenders. Some have defended it (and to their shame be it spoken,) on the avowed principle that India is to be retained

solely with a view to benefit its foreign rulers; others, whose sense of justice has prevented them going such lengths, but whose perception of what is right has been perverted by vanity, and an inordinate notion of their own qualifications, have observed that the ruin of the upper classes was the natural result of the English supremacy, but that equal justice to rich and poor was a point of superior importance to the interests of a few individuals. But has this been the real result? and is it only a few individuals who have suffered? Were this the case, we should not have so much to answer for. But as to equal justice, let *the people* answer the question,—not a few menial servants, or obsequious dependants, upstarts, who have risen on the ruin of their native superiors, and fattened on the plunder of their country, but the people at large,—and those who are sufficiently connected with them to know their real feelings. As to the number of respectable people who have suffered, let any one leave the English stations, few and far between, and go into the country-towns, and villages, and there see the innumerable houses which not many years ago were in good repair, and inhabited by men who lived in the style of gentlemen, keeping up establishments of servants, horses, elephants, and equipages, but which are now all falling to decay, while their owners or their descendants are dwelling in mud-huts, with little more than the merest necessities of life.

In what respect can such a state of things be the natural result of British supremacy, unless I have stated the truth, that self-interest, either in their own persons or that of their friends and dependants, is to be the primary object of our rulers in retaining their Indian possessions? There was no other cause which rendered it necessary that the upper classes should be involved in one general ruin; on the contrary, it would have added greatly to the stability of our empire, had we allowed them to remain; and equal justice to poor and rich would have had greater chance of being distributed, had we called in the assistance of those whose rank and influence, and knowledge of their fellow-countrymen, would make them much more efficient to that end than a handful of strangers could ever become. I

would here beg leave to explain, that I am not advocating the superiority of the natives of India to the English, (although I strenuously maintain that, when a fair comparison between corresponding ranks and classes shall have been made, the difference will be found to be greatly less than we choose to imagine,)—nor am I asserting that the former native establishments were faultless. But what I am desirous to impress upon my readers is, the fallacy of the notion, that any country could obtain the blessing of impartial justice and good government, by the substitution of a few strangers for their hereditary rulers, and by a sudden abolition of all local institutions, and the introduction of others, which were in many points at variance with, and in opposition to, the habits, customs, and prejudices of the people. Doubtless there was much to be corrected in the native administration,—and where is the country of which this cannot be said? Many instances might be adduced of the poor oppressed by the rich, and of those in authority turning their power to their own advantage; but to abolish the whole system, instead of correcting its abuses, was like rooting up a tree because a few of its branches were rotten, or pulling down a house because some of the timbers were broken. Are the abuses complained of unknown in England, even in its present enlightened days? Any one who has had anything to do with country business, will have found it by no means an uncommon transaction for two or three justices of the peace to cut a new road and shut up an old one for their own convenience, or that of their friends; or to cancel the license of one public-house in order to favour an old servant, who had taken the lease of a neighbouring inn,—often to the great detriment of the public at large; while those who reap the benefit in one case, mutually support their fraternity when they have any point of private convenience to obtain. Yet, notwithstanding these and many other abuses, should we allow that our African governors had devised a good plan for correcting them, by adopting that which we have put in practice in India?

How much better would it have been to have pursued an opposite course, and to have allowed the existing institutions to remain as they stood, until we had acquired a sufficient know-

ledge of the country and people to introduce changes with the prospect of their being also improvements. Had this been done, a single European functionary in a district, who should not only have been allowed, but ordered, to move about continually, would have been a sufficient check and control over the natives in authority. Any evil practices, or abuse of power, would have been speedily brought to his notice; for people who will submit to oppression when their only alternative is the obligation to take a journey of from twenty to a hundred miles, and the liability to be detained at the court two or three months while the case is under investigation, would speedily bring forward their grievances when they could do so without delay or expense, more especially as they would be pretty sure of a just decision when given immediately on the spot, founded on local inquiry, by a person really anxious to discover the truth, and unswayed by improper motives; such as the English always profess to be. By such a method of proceeding, one of two results would have followed;—either the people would have enjoyed better protection of person and property than they could before boast of, or it would be plainly proved that their English rulers were not superior to those they had supplanted. If no improvement had taken place when British superintendence was added to all that previously existed, the latter inference was unavoidable; but I cannot think this would have been the case: on the contrary, as the people would have enjoyed their established customs, and hereditary rulers, in addition to the influence and supervision of a more enlightened people, there would have been every prospect of an improved administration. The result of this would have been not only a blessing to the people, but would have been fully appreciated, and they would have rejoiced in the day that subjected them to our authority; for they would have easily perceived that, while their old customs and usages were preserved, every improvement that was introduced might be traced to us. Gradually, (provided we could have in some degree conquered our inclination to enact a *general rule* where a particular order only should have been issued,) whatever was found wrong in the native laws or institutions might have been corrected, and what

was good in our own, might without difficulty have been introduced,—the spirit of it, at least, if not the letter. For the English functionary, not having his whole time occupied in the details of “current business,” would have had leisure to investigate the affairs of the country, and the principles of jurisprudence, on an enlarged and enlightened scale. But this would have limited the extent to which the friends and relations of the Court of Directors could have been benefited, and, as has been already shown, they acted accordingly. Finding that European agency, however desirable, could not be procured but at a high price, it became necessary to employ native assistants in carrying on the affairs of Government. And here it might certainly have been expected, that in the choice of individuals to whom offices of trust and responsibility were to be confided, those would have been at first selected who had been accustomed to business under the former rulers, and had filled the highest offices; or, at least, if these were passed over under the impression that they might still be under the influence of their former rulers, that some regard would have been paid to respectability of character, and situation in life; but the same narrow feeling of covetousness operated equally in this instance as in those above alluded to. There was, indeed, no actual law passed, excluding any particular class of natives, (except native Christians,) but the object was pretty effectually obtained by fixing the salaries given at so low a rate, that no honest man would accept them, it being impossible for those who did to subsist without having recourse to nefarious transactions. Of the really respectable classes, the majority were deterred from accepting any situation; and the few who did so, were driven by necessity to practices which they would otherwise have scorned; while the greater part of those who were employed consisted of men of low extraction, destitute of principle, whose sole object was self-interest, without any regard to the means by which it was pursued. A short sketch of the history of some of the men and families who under the native governments possessed rank, wealth, and influence, and of their decline and ruin under ours, with the causes which produced these effects, together with an account of those natives

who are employed at the present day, would form an instructive illustration of the operation of the British-Indian system of government.

The insufficiency of such a mode of administering the affairs of the country could not, however, be concealed from even the partial view which our governors chose to take of the subject, and some attempts were made to remedy its defects. As, however, these were not drawn from right principles, they failed to produce the desired effect. The plan adopted was, to limit as much as possible the power of the native subordinates, and to throw every duty into the hands of the European officers: the result has been, to load the latter with such an overweight of business, that much of it was necessarily neglected, and the rest performed in a hurried and insufficient manner. On the other hand, the native assistants, having scarcely any nominal authority, were unable, had they been so inclined, to do much for the benefit of their countrymen: while, from the extent of the districts, and the absence of any proper supervision, they possessed in reality an immense and unauthorised power of oppression and extortion, which they were not slow to exercise, finding that it could be done almost with impunity. These were the men who were chosen to supplant the respectable native officers of the old government, and while they have been virtually allowed to exert a far greater authority than those ever enjoyed, they have not been subjected to any real and effectual control or responsibility.

But Government have at length perceived their error, and the ruinous consequences of grasping at present advantage, in utter disregard of the ultimate deterioration of the country committed to their charge. The experiment has been fairly tried of attempting to rule India solely, or to the greatest possible extent, by European agency. Whatever has been wrong, has been laid to the charge of the poor natives, and the remedy has as constantly been proposed in the increase of English functionaries. To such a pitch has this been carried, that at one time it was seriously proposed to employ English sergeants as thanadars (district police-officers), the absurdity of which can only be brought home to us by the "*argumentum ad hominem*." What should we

think if the African government in England, in the supposed case in a former number, were to select sergeants from their army, men unacquainted with our language, manners, and customs, and place them as police-officers in charge of districts about half the size of Middlesex, where they were allowed (although indirectly) to exercise a much greater power than that of our present justices of the peace,—which is not by any means an exaggerated comparison? The experiment, however, has failed; our rulers have discovered that good government is not to be obtained without the aid of the people, and at length have seen the expediency of selecting some of the respectable portion of the community in preference to the lower orders.

Wise and judicious as this measure must be considered by all who have studied the affairs of the country, and the character of the people, all the good effects which will flow from it must not be expected at once. Allowances must be made on various points, and, above all, we must be careful of falling into our old error of drawing general conclusions from particular instances of misconduct on the part of those suddenly raised to situations so far above their highest anticipations. The extreme prejudice among many of the English Government servants against the natives, would lead them to view with dissatisfaction the elevation of any native to a rank in reality equal to their own, and they will doubtless be on the watch to catch anything which should bring the new system into disrepute. Bold assertions are made, that it will never answer; that those selected will only accept the appointments with dishonest intentions; and even that the people at large are averse to the measure. On the last point (for there are some who not only *assert* but *believe* it,) I received an explanation from a respectable native acquaintance, a resident of Behar, the other day, to whom I mentioned that such an impression was current among the English. He replied, “That a Government officer, in communication with none but flattering menials and dependants, should entertain such an opinion, is not surprising; but that a person who mixed with the people should ask such a question, is a matter of astonishment. Is it possible that the upper classes could be displeased at being raised from

the state of degradation in which they have been kept so long? Will the people be dissatisfied by being able to obtain the decision of their causes in a reasonable time, instead of being harassed for years, and often virtually denied justice altogether? The dependants of the English and native officers attached to the courts will no doubt endeavour to instil the idea, because all improvement on the present system would cause a diminution of their illicit gains; but the people in general have received a new spring of action by the hope of advancement now held out to them, and a new incitement to exertion in the prospect of qualifying themselves in the career that is now open to them. Is this likely to create dissatisfaction?" This is a true statement of the case, and affords another illustration of the ignorance so general among the English functionaries of the feelings of the natives.

Doubtless some instances of misconduct will be found. A nation that has for so many years been treated with contempt and degradation, cannot all at once rise from the dust. Some time will, in all probability, elapse, before the new native judges will find themselves quite at ease in their new situations, and their habits of authority and command may at first sit rather awkwardly upon them, particularly among those by whom they have been hitherto treated so completely "*de haut en bas*." The objection that so few natives are to be found properly qualified for the situation, has somewhat better foundation. What, however, has caused this, but the ruin of the upper classes, and the absence of incitement to any to raise themselves, the natural consequence of the avaricious system of the British government? Nevertheless, there will be found, even at the present moment, some natives worthy of selection; and, as the measure is founded on justice and sound policy, it will and *must* succeed. The prospect of respectable employment will soon induce many more to render themselves eligible to the situations now open to them, and it is to be hoped that it will be followed up by creating similar appointments in the departments of revenue and police.

No. XVI.

ON THE STATE OF FEELING AMONG THE NATIVES
TOWARDS THE BRITISH GOVERNMENT.

IN the course of my observations on the affairs of this country, repeated allusion has been made to the state of feeling among the natives towards their English rulers; and it has been asserted that this is by no means so favourable as is generally imagined. There are few subjects on which so much ignorance and so many false impressions prevail. The popularity of our government, and the high estimation in which the English character is held, has been one of the most favourite subjects for declamation; while the injustice, tyranny, and oppression of the native governments have afforded a fertile field for contrast to heighten the effect of the picture. A representation so agreeable to our taste, and so flattering to our vanity, has been contemplated with so much satisfaction, that the attempt to place it in a different light could scarcely anticipate success; and I own it was with no small hesitation that my first approaches were made to this end.

I now proceed to investigate the causes which have tended to produce an unfavourable disposition towards our government, and to adduce such facts in favour of my statements as bear most strongly upon the question. The principal are those so often alluded to, as having more or less influence upon all others,—the over-wrought estimation in which the English are accustomed to regard themselves, and the broad line of separation from the native population, which, under the mistaken idea of *keeping up their dignity*, they have deemed it proper to establish. An almost total ignorance of the feelings of the people has been the natural result of this most impolitic conduct; and it has had an equally mischievous effect upon our own characters; for, living only among ourselves, and having only our own standard of opinion wherewith to compare our conduct and ideas, self-love has been gradually gaining strength, and prejudices taking deeper and deeper root in our minds. Interested and designing

men among the natives, attached to us from mercenary and dishonest motives, have not been wanting to confirm these pernicious habits and ideas. No people have truer and quicker insight into character than those of India; and, like other sycophants and menials, whose sole means of livelihood is their dependence upon the great, they have found it their interest to flatter the vanity of the English functionaries, by affecting to believe *their* ideas of things in this country correct, and by representing matters so as to meet the tastes and feelings of those "in the light of whose countenance" (according to the oriental phrase) "they derive exaltation." Scorned and detested as such men are among their own countrymen, there is no species of artifice to which they will not have recourse to bring themselves into favour with a government from whom they have everything to gain; and that *they* should misrepresent the truth, is not to be wondered at; but that those in whose service they are, while fully aware of, and openly condemning, their general depravity, should be satisfied with *their* testimony, instead of examining into the truth for themselves, is a species of inconsistency which would scarcely be believed, did not daily experience prove it to be but too common.

But those who are not enveloped in the mist of official dignity, and have found their way to *the people* at large, have acquired a very different idea of their real feelings; indeed, if we consider the subject impartially for a moment, it will be difficult to arrive at any but an unfavourable conclusion. For what is their real condition under the British government? Placed by the chances of war, or negotiations in which they had no share, under our authority, they have been ruled by a system whose primary principle was self-interest and self-exaltation. They have witnessed, year by year, the gradual decay of their power, their dignity, and their wealth, the ruin of their princes and governors, and the daily-increasing poverty of the whole people, caused by the rapacity and mismanagement of their governors; they have suffered by being excluded from every office which it was possible to bestow upon an Englishman; they have seen the abolition of almost every hereditary institution by which the affairs of the country were formerly administered; and have been mocked by

a harassing and vexatious system of *miscalled* justice, infinitely more expensive, and less efficient than their own, under which oppression and injustice have pervaded the land. This is, in a few words, a summary of their obligations to the British government; nor have they fared much better in the treatment they have received from the English as *individuals*. I have already spoken of the haughty tone of superiority assumed towards them in common intercourse, and of the contempt, neglect, and even insult, which they too commonly meet with in return for their politeness, patient forbearance, and attempts at civility. By the constant changes which our system induces, they have never had fair opportunities of recommending themselves to the few who were disposed to treat them well, or to entertain a favourable opinion of them; and when, by repeated instances of good conduct, they have succeeded in creating an interest in their behalf, and in some degree conquered the prejudices against them, others have been sent to take the place of those whom they were beginning to look upon as their friends. Like Sisyphus and his stone, they have been doomed to never-ending toil.

It is necessary thus to recapitulate much that has been already advanced, in order to bring the whole subject into view, and enable my readers (those, at least, who are not blinded by prejudice and partiality,) to form their own judgment, whether the natives of India have most reason to like or to dislike the English, either personally, or in their government. For the truth of the above statement, let the historians of India be consulted, and especially Mill (that part of his work, in particular, which treats of the internal government of British India): his representations would open the eyes of many, who abuse without having read it; and though this language may appear strong, it is fully warranted by what will there be found as matter of record, which has not yet been controverted. As to the treatment received from individuals, if need be, let the opinion of the natives be asked; but, indeed, in spite of the contra-assertions of a few self-sufficient persons, it is far too notorious to require proof. To counterbalance all this, what are the benefits which the English may adduce as having accrued to the natives by the

introduction of our rule? A partial security from foreign invasion, I allow; and when I have said that, I have mentioned the whole;—a great blessing, no doubt; but it may be questioned whether even a *less* security on that point would not have been fairly counterbalanced by a better internal government*.

But it is a great satisfaction to perceive that the eyes of men are beginning to open, and that they will now listen with some degree of patience to representations which will prove them to have been in error. Still, however, there is a reluctance to admit in its fair and full extent, a view so humbling to our pride, so little consonant to that feeling of self-congratulation which it is so pleasing to indulge. Every saving clause is gladly embraced, every insinuation attended to, that would tend to exculpate ourselves, and throw the blame elsewhere. Many of those who are in some degree acquainted with the feelings of the people, and who cannot conceal from themselves the fact of our unpopularity, endeavour to account for it by the circumstances of our being foreigners, and by the differences existing between us and the natives in religion, customs, and manners, which would render it almost impossible that any feelings of cordiality should exist between us; and that, however superior the institutions introduced by the English had been, they would never have been acknowledged by the natives to be so, from a natural feeling of jealousy. This explanation, however consolatory and plausible, will not stand the test of examination; and if we may judge from analogy, it will be completely refuted by a perusal of the history of India. It is not because we are *foreigners*, or because we have been *conquerors*, that we are disliked, but because we have pursued a course of conduct unparalleled in the history of conquest (except where the extermination of the original people was the object in view,) as to its tendency to degrade and impoverish those whom we have subjected. There are, perhaps, no people in the world who would so tamely submit to a foreign yoke, as those of India. This does not arise so much from want of pride, or deficiency of spirit, as from the circumstances in which the

* Holkar, Meeikhan, the Sikhs, and the Pindarees, have, at different times, overrun and plundered parts of the British-Indian dominions.

country has been placed. For ages,—indeed, as far back as the authentic history of India can be traced,—almost every part of the country has been, at different times, subject to every variety of masters. Between the two great classes into which it is divided, the Moosulmans (who also were foreign conquerors) and the Hindoos, the difference is fully as great as between the latter and ourselves; besides which, the sub-divisions,—among the former of Patans and Moguls, and among the latter, of Rajpoots, Mahrattahs (many of whom were of low caste), Sikhs (who in their ideas and customs are complete Hindoos), and many others,—each exhibit a very considerable difference in minor customs and modes of government. It may be also remarked, that the constitution of India has been somewhat of a division into separate districts, held under a sort of feudal tenure; that the people in each distinct province considered their own local governor as their supreme ruler, to whom they looked for good or evil; and cared little, or in some cases hardly knew, of what general kingdom they formed a part*. In this respect they resembled our own Highland clans, in former days, to whom their chief was king, and at whose bidding they remained in peace or rushed to war, espousing that cause which he adopted. But there was this difference in India, that changes in the local governors were usually considered of little moment. If he behaved kindly, and treated the people with civility, the new governor found his influence in a short time as great as his whom he had supplanted; or, if he was not popular, he either came to a violent death, or was obliged to leave the province. This state of things has not been sufficiently taken into account in our admiration of the rapidity with which the English dominion has been extended. We have pleased ourselves with the idea that our superior justice, and enlightened rule, have caused the natives to hail our advances, and rejoice in our excellent government.

* The indifference of the people was strikingly exemplified on the occasion of the crowning of the king of Lucknow. In Europe, or in America, the erecting a tributary chieftain into king would have created a strong sensation in the country in which it had happened.

In Oude, it was some time before the event was known at any distance from the capital; and, with the exception of the servants of Government, hardly any one bestowed a thought on the subject.

Such having been the state of India for centuries, it will not be a matter of astonishment that habit should have engendered an indifference among the people as to the tribe or caste of their rulers. On this point they are, perhaps, more free from prejudice than any people on earth. The personal character of the individual alone is considered, and it is in the power of every governor to make himself hated or beloved by the people under his authority. The whole history of India will supply us with instances innumerable of Hindoo soldiers fighting against a prince of their own caste, under the banners of a Moosulman leader; and, on the contrary, of Moosulman troops, in the ranks of a Hindoo chief, attacking one of "the faithful*." How then can the fact of our being foreigners, conquerors, and of different faith and manners, account for the dislike in which we are held by this people? The treatment they have received at our hands is a much more probable solution of the question.

Undoubtedly on our first acquisition of several of the provinces now under our control, considerable joy and satisfaction was manifested by the people;—but under what circumstances? After a period of warfare, the miseries of which all had shared, either in their persons or property, *any* settlement, and *any* government, would be hailed with delight; and those who had so much to hope or to fear from our interference, and were almost entirely at our mercy, would naturally endeavour to ingratiate themselves with their new masters by every art that could flatter their vanity, or conciliate their good-will. Like the French of our own days, they raise the cry of "*Vive l'Empereur*," or "*Vive le Roi*," in the excitement of the present moment; but when this has subsided, and experience has disappointed their hopes, then it is that the voice of the people is heard in its natural tone.

So seldom, however, is it listened to with attention, and so willing are we to adhere to our delusion on this point, that, notwithstanding the numerous proofs that have been, and can still be, produced to the contrary, the dissatisfaction of the natives

* A term by which the Muhummedans are fond of designating themselves; thereby intimating that they are the only true believers in the world.

with their own governments, and their confidence in, and approbation of ours, is still maintained. The expedition to Rangoon, during the Burmese war, was undertaken in the full conviction of the existence of this feeling among the Burmese. It was anticipated that no sooner should our troops be landed there, than the people would flock to their liberators, and supply them with boats, provisions, and other necessities, which would at once enable them to proceed to the capital. Yet what was the real state of the case? That to the last moment of our occupation of the enemy's territory, not until driven to it by starvation, did a single Burman hold any communication with our forces. The simple fact that they preferred their own government to ours, was too plain, and too mortifying to be admitted. It was necessary to soothe our vanity, and this was done by asserting that the whole population was driven off by the Burmese tooops. Yet Sir A. Campbell, after reporting "the annihilation or dispersion of the enemy's force," used to inform us in his despatches that these same *annihilated and dispersed troops* had contrived to prevent the whole population from approaching his camp; and the same statements were repeated after a considerable advance had been made, and when large tracts of country in the neighbourhood of our army were unincumbered by the presence of a single Burmese soldier.

Nor are the Burmese by any means a singular instance in this respect. I have travelled in several independent native states; and I do most confidently assert, that the mass of the people deprecate, above all things, their subjection to the British authority; and I could even particularize one province of the Hill tract, the Deyra Doon, conquered from the Goorkahs, who, in their distant and newly-acquired territories, were undoubtedly guilty of the most tyrannical conduct, by the people of which the change was notwithstanding regretted. In Kumaon Proper I have been told that it is different; but this may easily be accounted for, by the character of the present able commissioner of that district*, whose zeal in promoting the interest of the natives, and long experience of their habits and sentiments, has already been

* G. W. Traill, Esq.

celebrated by an abler pen than mine*. But I will be bold enough to instance Oude, now the subject of so much discussion and inquiry, and think I can show that even there the introduction of our authority is dreaded, not only by those in power, but by the people at large. The misgovernment of Oude has been the most fertile topic for the English for years, and it is strenuously asserted, both officially and in private conversation, that the people are sighing for the introduction of our rule, to put a stop to the miseries under which they are groaning. Let us first investigate the causes for this belief, and then see whether facts and analogy will bear them out. The opinion is deduced, first, from the reports and statements of the different Residents at Lucknow, derived from their sycophant dependants. I believe that many of them have officially given opinions quite at variance with their private sentiments; satisfying their consciences by representing them as having been derived from conversations with the people, without discriminating what *class* of natives were their informants. The next, is the inefficiency of our own police, and the inadequate protection to person and property which it affords. The magistrates, being obliged to make periodical reports, are necessitated to find some reasons which should not detract from the excellence of our system. For the districts along the whole border-territory, Oude is the scape-goat. "The dacoits come from Oude."—"They are protected by the zemindars, and others in authority."—"Until some better system be enforced in his Highness's dominions, it is impossible that peace can be preserved here."—"The thieves find a ready deposit for their plunder in Oude, where, from the disinclination of those in power to assist our police, or pay any attention to my representations, it is impossible to follow up any trace, or obtain any clue to discover the perpetrators," &c. &c. *usque ad nauseam*. Such are the statements of our magistrates, most of whom believe what they write. They are ignorant of the real state of the case, and take for granted the assertions of their police, made in order to conceal their own inefficiency, or connivance with the criminals. These are too flattering to themselves to be controverted, or even

* See Heber's account of his visit to Almorah.

inquired into, and are, therefore, allowed to pass current, while the few who are better informed, finding it difficult to stem the torrent, allow themselves to be carried along by the stream.

Now the truth is this:—The boundary is a mere arbitrary line drawn through a tract of country which was formerly under the same government. On each side of the boundary, the people are connected by the ties of kindred and acquaintance, and even by being sharers in the same property, and they keep up their intercourse both for good and evil. In the robberies in our border-territories, some of the Oude people are undoubtedly occasionally concerned; but, I believe I may say, *invariably* in connexion with some of the residents in the British possession. Equally are some of our subjects in the same manner connected with the robberies in Oude. It is very doubtful, however, which party could conscientiously throw the first stone on this point. As to the disinclination of the local governors of the different provinces in Oude to aid our police, there is some truth in the assertion; but from what does it arise? From want of reciprocity on our parts. Should an application be made for the apprehension of a criminal from Oude, who has taken refuge in the British dominions, in general no notice is taken of it; occasionally the man is apprehended, who, knowing the weak side of the English magistrate, cunningly tells a fine story of the oppression he had suffered, and concludes with declaring that he has left his home, lands, and family, to enjoy justice and protection from us, &c. This at once procures his release, and the affair forms the basis of an eloquent paragraph in the next periodical report. Such being the reception with which requisitions from Oude are treated, it is not surprising that the governors there should retaliate.

The current assertions respecting the misgovernment of Oude, receive considerable strength from what passes repeatedly between our officers and their sepoys. Every one has complained (and with much truth,) of the tendency among the natives who are connected with those in authority, to turn that connexion to improper account, and to make use of it in order to enforce an unjust demand, or an unfounded claim. No class is more prone to this than the British sepoys, the truth of which assertion

would at once be proved by an inspection of the records of any of our civil courts; where the preposterous claims which are constantly brought forward by sepoys,—not so often in person, or according to the established forms and channels, though that is sometimes the case, but whenever they can persuade their commanding officer to enclose their petition in a letter from himself to the judge or collector,—are really perfectly surprising. It is the same with those sepoys who are natives of Oude. Most of them pretend to lay claims to some land or money to which they have not the slightest shadow of right. This they are fully aware of, and would never think of urging it in a court where an impartial hearing would be given; but having some notion of the complete subserviency of the court of Lucknow to the will of the British government, they imagine that by procuring a letter from their commanding officer to the Resident, they may perhaps succeed in obtaining an off-hand order to the local governor to grant what they demand. To this end a pitiful story is told of the injustice they have suffered; the picture being heightened by a dreadful account of the state of the country, judiciously interspersed with neat compliments to the British Government functionaries and officers, and usually concluding with an assertion that the people are clamorous for our taking the country under our control. I have not exaggerated. I know this to be the case; and I firmly believe that three-fourths, or even a larger proportion, of the complaints of injustice suffered in their own country by the Oude sepoys in our army, are in reality of such a nature that, in strict justice, they ought to be punished for making them. I have mentioned an analogous case, which can easily be proved by a reference to our civil functionaries as to the nature of the claims often preferred by sepoys, when they can coax an officer into writing about the matter more than the mere official form.

But it will be said, “Oude is notoriously ill-governed; robberies and dacoities are of daily occurrence; troops are necessary to the collection of the revenue; and, in short, the people are groaning with oppression.” This is the point; by the help of the word “notoriously,” the question is begged throughout. Let

an impartial inquiry be made before it is pronounced that the frequency of crime is greater than in our own adjoining provinces. The fact may be strongly doubted. On the second point, is our assessment so light that no force is necessary for its collection? True, troops are seldom called out; for two reasons: first, because the army of revenue-officers, under the orders of the collector, backed by the police, which, in the event of open resistance, he has the power of calling to his assistance, is so strong that, under ordinary circumstances, resistance would be hopeless; and secondly, because it is known and felt that troops are ready to move on the least symptom of any serious opposition; to say nothing of the severity of the ultimate punishment, by the confiscation of the lands. Nor should it be forgotten that the leading men, who might have headed an insurrection, have, under our system, "melted away" (to use the native phrase,) and their forts and even houses gone to ruin for want of means to keep them in repair. It is nothing but the absolute destitution of any means of resistance that causes them to submit to the grinding extortion to which they are subject. But the feelings of the people of Oude should be taken also into consideration; and here "*the point of honour*" exerts its influence. This has been descanted on by other writers, and is as various in its effects as it is sometimes absurd. Among the North American Indians the "point of honour" is to bear tortures without wincing or uttering a cry;—an Egyptian rayah, who has his rent in his pocket ready to pay, will yet submit to be flogged before he will deliver it. Many others might be mentioned. But to the point: in Oude the turn taken by "*the point of honour*" is frequently not to pay the revenue until some show of force is made; and it should be recollected that there the police is on a much smaller scale than in our own provinces, which is an additional proof that matters there are not so bad as is usually represented. I was once passing a village in Oude, and observing a considerable stir among the people with whom I was acquainted, who were busily employed in repairing the small adjoining fort, asked the reason. "We expect the amil* in a few days to

* Governor of the province.

collect the revenue," was the reply. "And do you intend to resist?" "Certainly." After a little further conversation, one of them smiling, said, "There will be no great harm done: the amil will demand ten thousand rupees—we shall offer one thousand. He will call out his troops, who will fire at us from a respectable distance, which we shall return. After a day or two thus spent, without perhaps a man being injured, we shall come to an understanding; present the usual offering, and about three thousand rupees, which is the proper rent of the village; and we shall part very good friends." And so it happened. I do not say that such is always the case; but it is so in very many instances which are magnified into "insurrections caused by the misgovernment of Oude." Now on the third point: if the people there are really in such a wretched condition, how comes it that, with a mere arbitrary line and nominal boundary, where the soil and climate are on each side the same, and where the people of each country are connected by every tie of relationship,—how is it that under such circumstances *emigration* has not taken place? Not merely of a few individuals, (most probably flying from justice,) but emigration on a larger scale. The natives of this country undoubtedly possess strong local attachments,—stronger perhaps than exist in most nations, and will submit to a great degree of misery sooner than leave their native lands. Yet the history of India abounds with instances of emigration in bodies caused by oppression on the part of their governors. I have travelled over several parts of Oude, and can testify, as far as my own observation went, that it is fully cultivated according to the population. Between Khanpoor and Lucknow numbers must daily pass who can confirm or deny this statement. Let them declare whether any portion of land there lies waste which is *fit for cultivation*. I have known many officers who have been stationed at Seetapoor, and have made excursions into the neighbouring parts. without an exception, they described the country as a garden. In the number of cattle, horses, and goods which they possess, and in the appearance of their houses and clothes, the people are in no points worse, in many better off, than our own subjects. The wealth of Lucknow,

not merely of those in authority, but the property of the bankers and shopkeepers, is far superior to that of any city (Calcutta perhaps excepted,) in the British dominions: so at least the native bankers and merchants, who are pretty good judges of such matters, universally assert. How can all this be the case if the Government is really so notorious for tyranny and oppression? The truth is, that the Lucknow government is in many cases more lenient than our own. Sales and confiscations of hereditary property are by no means common there. (Our Government has grown a little wiser of late years, but Reg. 1, of 1821, proves how common and unjust they must formerly have been.) True, a man is not unfrequently deprived of his estate, as a punishment, but it is rare that he is not ere long restored: and that is better than being permanently stripped of his possessions, perhaps for a trifling balance caused by over-assessment of the lands. As to the administration of justice, the following is the answer of an Oude acquaintance whom I was consulting on the mode of realizing some demands there:—"The amil will hear your complaint, and if proved, will levy the amount, of which he will keep one-fourth, and give you the remainder; but your business will be settled in a week, and after all, your clear gain will be greater than it would be by the vexatious and dilatory proceedings of our own courts." Nor did he say more than the truth.

I have been led to say more than I at first intended on the Oude government, because, of all the native states, that country is generally instanced as that in which misrule and oppression have reached their *acmé*. The accuracy of the statement, however usually given, is hardly consistent with the facts and inferences above enumerated, and I will conclude by reminding my readers of the answer mentioned by Heber to have been received, by the British resident, from an inhabitant of Oude, whose opinion was asked as to the benefit they might expect from the occupation of the country by the British: "Miserable as we are, of all miseries keep us from that*." Further, the evils

* This need not be taken literally: | pression of opinion, blended with the
it is an amusing instance of a free ex- | habitual deference of an Asiatic to a

that do exist in Oude, have been chiefly induced by the system of interference which has been established by the British government. Had the country been left to itself from the beginning, it is probable that it would have been in a far better state than it is at present.

I will now give another instance to show the estimation in which our government is held by the people. On the Goorkah conquest of the Himalaya Mountains, their tyranny was such, that immense numbers of the people emigrated. From the Deyra Doon and parts adjacent, a few individuals settled in our neighbouring provinces; but the greater number crossed the Jumna, and fixed their abode in the independent Sikh territories. When the Goorkah government became a little settled, the chiefs endeavoured to encourage the inhabitants, to return to their homes, and partially succeeded; the majority still remaining in their new possessions. On the accession of the British government, the return of the expatriated population to their own land was fully anticipated; but no such event followed. On the contrary, the number already in some parts of the province was diminished by the partial emigration to the Sikh territories. Some years after, very great efforts were made by the civil functionary to induce the old inhabitants to return, but without success. The strong local attachment of the natives of India is well known. In this case, there was no long journey through a perilous country to be undertaken, the generation that had been exiled still existed, and the distance from their own home was from fifteen to fifty miles; yet they preferred remaining in their newly-adopted country.

It is universally acknowledged, that the constant presence of our troops alone prevents disturbances, or, in plain English, insurrection; and we have had proofs sufficient that on any opportunity a spirit of insubordination has immediately been manifested. I think it is Grotius who remarks, that if every mutiny were impartially investigated, however unjustifiable it

person in authority. The great man asks a question in a tone of assertion; the other assents, but adds what completely negatives the assent. His answer in plain English is, "It is not proper for me to contradict what you are pleased to assert, but I am of quite a different opinion."

may be in the soldiers to resort to such a measure, it would be found to have had its origin in some promise broken, some right withheld, or some injustice practised towards the men:—so, in civil life, I believe that inquiry would prove that almost every insurrection or disturbance has been caused by some wrong committed against the people, or some hardship suffered by them. I by no means defend the mode of redress adopted, nor do I assert that when once roused, the mob have always directed their fury against the real authors of their injuries. On the contrary, it is a lamentable fact that when excited, all the evil passions of our nature are allowed full scope, little or no distinction is made, and plunder and rapine are the natural results, however little intended at first. But such events are rare, without some just cause of discontent. The late Cole insurrection*, which cost so many lives, and occasioned such heavy losses to Government, however the unpalatable fact may be studiously concealed, and even denied by many, undoubtedly had its rise in oppressions and extortions practised on the people by the subordinate natives attached to the court, and some few individuals to whom they gave the support of their authority “for a consideration.” The disturbances in most of the Upper Provinces in 1824,—and there was scarcely a district in which the spirit of disaffection was not more or less manifested,—arose from the same cause. I am aware that a different version was attempted to be given, and that it was asserted that the idea of our having sustained reverses in the operations against the Burmese, and of our troops being required in that quarter, was the cause of what happened; also, that many of the parties of insurgents were merely a few banditti, who were on the look-out for plunder. Certainly these were the proximate causes; but if the natives really enjoy such happiness under our government, how comes it that they are so ready to unite in opposition to our authority? How is it that in the whole of the Upper Provinces not one of the leading landholders was found to come forward in support of Government? It is also true that some of the insurgent parties originated in a gang of banditti formed merely with the hope of plunder; but

* This occurred in 1832, in the provinces between Calcutta and Nagpoor.

what was the conduct of the people? On the first success of the robbers, numbers even of the better sort of inhabitants immediately joined them, and *then* insurrection, and not mere plunder, was the object. The rallying cry all over the country, repeated with the most enthusiastic exultation, was, "The English reign is over!"—"Down with the English!" It will not avail to say that it was foreign to the habits of the people to come forward, and that they stood aloof, leaving the business to our police and troops: the history of India abounds with instances in the native states, where, in the event of a disturbance, those of influence called out their retainers and tenants, and boldly stood forth in defence of the Government. But it was very different at the period above mentioned: they did not merely stand aloof: even those ordinarily in frequent attendance on the different magistrates, separated immediately to their homes, under pretence of exerting their influence to preserve order in their own neighbourhood, and began raising men; but for what purpose?—to be ready, if occasion proved favourable, to turn their whole weight and power against our government; some of them did so; and it is not going too far to assert that had not the most prompt and vigorous measures been adopted and a fortunate issue not occurred at the first serious collision, or had a delay of a few days longer taken place, an insurrection would have broken out, which it would have required all the troops in the Upper Provinces to quell; and that it might have terminated in the utter subversion of our power. I have seen the official correspondence from most of the districts in that part of the country at that time. In that from Suhaurunpoor it was stated that a gang of banditti was first formed for plunder; that on their success, they were joined by others, villagers, when further plunder was perpetrated; a few days after which their numbers amounted to about twelve hundred, joined by one of the principal landholders in the district, who received them into his fort, openly defied the Government, and supported one of the party in assuming the title of Rajah; and that had the collision with the troops who were called out been delayed a day, their numbers would have swelled to at least three thousand; it

having been *ascertained* that several parties of from fifty to four hundred had been already formed, expressly to join the insurgents, and that had our forces sustained a reverse, the whole of that country would have been one scene of rebellion and outrage. So far from being controverted, the truth of these statements was acknowledged by Government, and the exertions of those engaged received their due: to them a fortunate, and, let me observe, not very common occurrence; for it has generally been the practice of Government to endeavour to show that the local functionaries have been precipitate, and have had recourse to harsher measures than were necessary; being well aware of the tendency of an insurrection to excite suspicion, that all is not as it should be on the part of the Government.

Nor is (or at least has been) this feeling confined to the Upper Provinces, where the people are far more inclined to be turbulent than the patient Bengalees. But, in truth, this *turbulence* and *patience* is nothing more than high spirit in the one instance, and a want of it in the other, which leads the former to be more ready to show their discontent than the latter. Even in the Lower Provinces insurrectionary symptoms have been occasionally displayed. At the period of the disputes between Warren Hastings and the Rajah of Benares, a report was current that Mr. Hastings was killed: this was immediately followed by disturbances in several of the Bengal districts,—in particular, in Rajshahye and Beerbhoom the collection of the revenue was stopped for several days, and the authority of the English functionaries, for the time, was completely subverted.

Connected with this subject, the degree to which the English possess influence over the people is worth inquiry. It is a point on which much difference of opinion exists. The majority describe it to be very great. Others declare that we have little, or none. As far as my observation goes, I should say that the former statement is given by men who do not look beyond the surface: they are content to take the obsequious and servile behaviour of their dependants as marks of real respect; and the apparent readiness with which official orders are obeyed as proofs of influence. Those who assert the contrary have all been men

who possess considerable acquaintance with the native character and feelings. Under such circumstances, which of the two is most likely to be correct? If we consider the effects of the system pursued by the British government, we shall not find much ground for the belief that the civil officers can possess influence with the people. As has already been remarked, the nobles of the country have been stripped of their authority, and pensioned off to degenerate, having no stimulus to exertion, no hope of raising themselves in the scale of existence. The landholders of respectability have been reduced to poverty by taxation to the uttermost, (assisted, I allow, by the system of equal division of landed property, which has been carried to a much greater extent under the English than under any native state; probably on the maxim, "*Divide et impera*;"") so that, with the exception of a few merchants and shopkeepers, there is scarcely a wealthy native in the Upper Provinces; while the English keep so aloof from the people, that the state of feeling existing between them is fast approaching to that of the slaves and their owners in the West Indies.

In such a state of affairs what influence can exist, except that of fear? Is it to be supposed that those who have been deprived of their power and wealth should *like* the Government who have been the instruments of their ruin? that they should *speak well* of those by whom they have been humbled and degraded? Is it possible that their relations, friends, and former dependants, should not sympathize with them, all more or less implicated in their downfall? And, finally, will not the people at large, who are taxed with much greater severity than they ever were before, be ready to concur in their complaints? The ruin of the upper classes has been (like the exclusion of the people from a share in the Government) apologized for, by saying that it was the necessary consequence of the establishment of the British power. That it was so of the system we have acted on,—that of immediate and temporary profit, without looking to future results,—is lamentably true. But the mere occupation of the country by the English required no such proceedings; indeed, had we acted on a more liberal plan, we should have

fixed our authority on a much more solid foundation than that on which it now rests; and probably have ultimately realized as much *net profit* as we are likely to obtain under the present system. Had we allowed the upper classes, particularly the landholders, to retain their authority, modified, perhaps, in a certain degree, under proper check and control, and employed them to assist us in the government of the country, instead of being the objects of their hatred, we should have had the incalculable benefit of their assistance and influence, and that of their numerous relations and dependants, in supporting our power in any emergency. But the dislike to see any *native* in possession of authority has been carried to an extraordinary degree. No sooner have we become masters of a province, than the blight begins to fall indiscriminately on all; those who lent us their assistance, and those who opposed us, receiving generally the same treatment,—a remark I have often heard made by the people. Strange as it may sound, I believe that it would have been, in reality, far better for the country, had we even pursued the usual plan of barbarous conquerors, in parcelling out the lands among our own followers, and giving them to English gentlemen. But had English settlers been permitted to obtain possession of estates by fair means, it would have been far better; for then there would have been a connecting chain of links between the highest and the lowest, all of whom would have had an interest in preserving order, and supporting lawful authority; but under the system hitherto adopted, there is no middle class between the foreign rulers and the native working classes; and their respective situations in society have been rendered almost as distinct as that of masters and slaves. The total absence of real influence on the part of the civil officers, as such, and their great ignorance of what is going on in their respective districts, (a thing incompatible with the possession of much influence,) has been strongly apparent whenever any exigency has arisen. I have before alluded to the fact (see No. VI.) of a magistrate having been first informed of an insurrection which had existed some days within a few miles of his own station by Government, who had received the intelligence from a mer-

chant in Calcutta. I will now give two more instances in illustration. A judge and magistrate had a number of horses which he wished to dispose of. He had a native favourite (who was not in office, but) who alone had free access to him. This man established lotteries for the horses, obliging the officers of the court and police to take tickets, which used to be sent to them monthly, in lieu of so much pay. Another had also some horses for sale, and also a native favourite. This man disposed of his master's property for ten times their value to different natives, giving them to understand that the sums paid would be the means of procuring them situations; for that, although his master could not, of course, appear in the transaction, he was fully aware of it. In reality, he credited him with only a fair price, embezzling the rest himself. The former of these was notoriously inefficient, the latter an extremely able public officer, and a very superior man; yet I firmly believe that they were both ignorant of what was really going on in their names. Both cases were afterwards made the subject of public investigation, and in the latter the person himself was instrumental, when he discovered it, in bringing the matter forward. I would observe that the individuals alone are not to blame for this ignorance and want of influence. The system which causes such a state of things must bear its own full share of condemnation.

I do not mean to deny that instances of considerable influence possessed by the civil officers of government are occasionally to be found; among such a people as the natives of India, it would be strange if it were not so. I have before alluded to one of the causes which has facilitated, and for a long time will facilitate, the success of a foreign invader; and the same cause has placed it in the power of any individual to make himself beloved and respected by the people, whatsoever may be his caste, country, or religion. They have so long been accustomed to such a variety of rulers, that the character of the individual is almost all they consider. I have already instanced the example of those among the English merchants and indigo-planters who have treated the people well, and these are only temporary residents. I have latterly conversed a good deal with the natives respecting

the permanent settlement of English as landholders; one and all declare that, provided the settlers would behave with civility to the people, and be moderate in their demands for rent, they would obtain immense influence, and would find their tenants and dependants ready to follow them for good or evil. The same answer has been given to others. Would not such a body of men, who would never prefer a native to an English government, be of the greatest assistance in strengthening our power? There have been *some* English functionaries, too, who possessed great influence, but it was entirely personal, and quite unconnected with their official capacity. I will here relate an anecdote of what I one day witnessed; in explanation of which, it should be stated that in a certain place resides a native chief, (whose family were rulers over a large territory,) on a pension which he has received for more than twenty years. He does not possess a foot of land, nor has he any influence beyond what he derives from personal character and hereditary recollections. This chief was at a town nearly sixty miles distant from his own residence, and in a different district from that in which it was situated. It was the first time he had visited the place for many years, and the people there did not at all benefit by his usual expenditure. I saw the judge and magistrate of the district ride through the town,—he scarcely received a salaam. I saw the Nawab ride through; the people all immediately came out of their houses and shops, removed any little obstacle that might be in the road, and all bowed and greeted him as one they were glad to see. Let me add, too, that this chief was a Moosulman, and that the majority of the population from whom he received such a reception were Hindoos. Are the differences in religion, customs, and foreign extraction, between us and the Hindoos, and between them and the Moosulmans, so much greater, that our civil officers cannot excite such feelings of respect among the people?

Before I conclude, I must beg leave to offer a few remarks on the permanence of our empire in India, and on the possible result of a foreign invasion. The former has hitherto been considered by the majority as established beyond the chance of being shaken; as a *possibility*, the subversion of our power has been allowed;

but this has been regarded as an event so far distant, that little or no attention has been bestowed upon the subject. The want of real combination among the native powers, and the absence of any external enemy possessing sufficient military force, have been dwelt upon; and this being undeniable, it has been pronounced that all is secure. Some few, however, have taken a different view of the question, and more than one writer of ability has alluded to the event as one that must occur, and that, probably, at no very distant period. Our empire is, indeed, like an island of sand thrown up by an inundation; it possesses no stability in itself, and nothing has been done to give it any. No embankments have been raised, no trees planted, whose roots might extend beneath and bind it together. The whole attention of those who have taken possession of it has been absorbed in *digging for gold*; while a few individuals have been employed from time to time in repairing, with fresh heaps of sand, whatever damage it has sustained. This may succeed for a time, but the whole fabric is liable to sink by its own weight, or to be carried away by another flood. A *rat-hole* has ere now carried away a dyke in Holland, which is composed of a much firmer material than sand. I do not imagine that this will ever be effected by a combination among the native princes, or by a premeditated insurrection; it is more likely to happen when totally unexpected, and to have its origin in some petty disturbance, where the insurgents may be fortunate enough to defeat the first small body of troops sent to subdue them; and then the feeling would spread like a burning forest, till the whole country was in a blaze beyond the power of extinguishment.

The prospect of a Russian invasion has been so often ridiculed as a bugbear, that few now allude to it. We boast of the strength and efficiency of our army, and triumphantly ask, What can Russia hope to be able to bring into the field to cope with it at such a distance from her own territory and resources? Were this the only question, we might safely treat with contempt any effort of Russia. Were we safe from internal commotion, we might indeed bid defiance to any external enemy. But this is *not* the only question; many other points are to be considered.

What portion of our numerically large army could be concentrated on our north-western frontier? How many of our districts could we venture to leave without troops? What cavalry could we bring forward to keep in check the thousands of Persian and Cabul horse, whom the hope of plunder would induce to accompany them, and who, with a disciplined army to serve as a nucleus, would scour the country in every direction, destroying what they could not carry off, cutting off stragglers and foraging-parties, and intercepting convoys of provisions? Lastly, what force would be required to keep down the disaffected in our own provinces, who would be hovering round every detachment, killing every man who strayed beyond his picquets*? Thousands and thousands of our own subjects would be employed in this way, and I have heard many intelligent men assert that, were a body of thirty thousand disciplined Russians to reach the Sutledge, and avoid an immediate conflict, we should not call a foot of ground in Upper India our own, but that on which our army stood; and that our troops would starve in their camps, or be destroyed in detail in attempting to procure provisions, or be driven by necessity to desert our standards; and that in a very short time the British power would no longer be known in India. I think there is ample ground to justify this opinion. The disaffection to the English government I know to be at a most alarming height; and, with any prospect of success from external assistance, it would rise up with an overwhelming force.

I am not one of those who are inclined to look at the dark side of the picture; and I am fully sensible that any convulsion which should overturn our power would be attended with incalculable horrors and misery to the whole country. I have allowed the British government to possess the *ground-work* of a system which might be rendered a blessing to the people, and at the beginning of my career in this country, I believed that our

* The total force brought into the field, after every exertion, in the Mal-iatta campaigns of 1817-18, by all the three Presidencies united, and in a part of the country centrally situated between the three, was under 112,000 men, at a time when our regular army

was larger than it is at present, and when we had many provincial and local battalions which have since been disbanded. The total amount of our force then, was nearly double what it is now.

government was held in that light by them. Better acquaintance and more familiar intercourse with them, both in my own person and that of some of my friends, has induced me to change my opinion. The repeated assertions of the superiority of the British administration, and of the benefits accruing from it to the people, have been caused by pictures of which we ourselves have been the artists. We have yet had no "*Lion Sculptors*." Although near the "eleventh hour," it is not yet too late. Let those who have it in their power to correct evils and abuses complained of, take warning in time; and we may, with the blessing of Providence, yet see the day in which the natives of India will indeed rejoice in being subject to the British sway. Whatever injustice may have existed in our acquisition of the sovereignty of this country, *humanity alone* should induce us now to keep possession of it; but let this be done, not by an overwhelming military force, in opposition to the wishes of the inhabitants, but by enlisting their feelings and affections on our side.

April 6, 1833.

No. XVII.

ON THE IMPROVEMENT OF THE COUNTRY.

BEFORE I proceed further in the detail of the various abuses arising from the imperfect administration of justice under the British rule in India, it may be well to take a general view of the advantages and disadvantages which have accrued to the country at large under our dominion, and examine whether it has advanced or retrograded in general improvement.

On this subject, I imagine, very erroneous impressions are current, and great delusion prevalent. The general prosperity of the country has been so often asserted, and the benefits which it has derived from its connexion with England so loudly maintained, both by Government and individuals, that few have yet ventured to dispute the question, or indeed to enter into any inquiry upon it. Satisfied with the pleasing idea of a grateful

and happy people reposing in peace under the benign influence of a nation so justly celebrated for its superiority in religion, laws, manners, and government, the effects which these *ought* to have had, seem to have been taken for granted as the *real result*; and while the imagination has expatiated widely in so inviting a field, the sober voice of truth has been silent.

Let us, however, examine the grounds on which these flattering representations have been established, and judge for ourselves how far they are consonant to experience and matter of fact.

The chief proofs adduced by the Government in support of their assertions of the flourishing state of the country are, the great increase of revenue subsequent upon the successive occupation of every province by the English, and the rapid progress of population. These two points, when taken in conjunction with others, afford certainly a tolerably sure indication of increased prosperity; but alone they are not the best criterion. In instancing the former, it has been forgotten to make due allowances for the circumstances under which it has arisen; these have been, with few exceptions, either after a war, or after great deterioration of the provinces had taken place in consequence of a system of misrule, induced by British interference. In either case, it could not be expected that much revenue could be collected during the first year or two of our acquisition; but, a matter of course, when the country became settled, and trade and agriculture revived, the revenue would increase accordingly. Besides, it has always been the boast of our collectors and revenue officers, that they have extorted much larger sums from the people than ever were realized by the native rulers. They thereby intend to prove their own superior acuteness over the officers of the native governments. They had better have refrained from the boast, although their assertions are, lamentable to say, true enough. On the latter point, I will quote the answer of Sir H. Strachey to a query (No. 17) from the secretary to Government, dated January 30th, 1802.

“From the circumstance of increasing population alone, we cannot, as many pretend, draw an inference of very high prosperity and good government. England is certainly a country

enjoying a good government, and great internal prosperity; but the population of the cultivated parts of Bengal surpasses that of England, and this population increases in Bengal in a far greater proportion than in England; though I imagine the government of Bengal will be admitted to be inferior to that of England. The situation of almost all orders of people here is highly favourable to the propagation of the species. Everybody marries. An unmarried man of twenty-five, or an unmarried girl of fifteen, are hardly to be found. As soon as girls become marriageable, generally before, husbands are, without difficulty, provided for them. Marriage is a thing which happens of course,—a necessary part of life. The people live a regular, sober, domestic life, and seldom leave their houses, not being liable to be called upon for the performance of military service, or public labour, or servitude, so common in most countries. Very few marriages are unproductive. The women, becoming prematurely debilitated and decrepit, do not, perhaps, bear so many children as those who marry at a riper age; but barrenness is extremely rare. Polygamy, prostitution, religious austerity, and the circumstance of young widows seldom marrying a second time, are the only obstacles I am at present able to recollect to the increase of the population; and all these, though in themselves evils of considerable magnitude, being productive of individual suffering and inconvenience, I do not consider, in their general effect upon the population of the country, as very important. Among the causes of increase, are to be reckoned the extreme facility of rearing children. Here no infants perish of cold, or diseases proceeding from dirt or bad accommodation, nor, except in famines, of unwholesome food. The small-pox sometimes carries off multitudes of children. Inoculation, though it has been known for ages, is by no means universally practised. Sickness, however, is very uncommon among children; as soon as a child is weaned, it lives on rice, like its parents, goes naked for the first two or three years, and requires no care whatever. In years of plenty, poverty scarcely ever prevents a man from rearing a family of children.

“The political security afforded to this district from the

ravages of the Mahrattas is the greatest blessing the natives could enjoy; but to imagine that the population has increased solely in consequence of our system of internal administration, appears to me to be most erroneous. Under the native governments, the population had reached its utmost height, or very near it. Thirty years ago, nearly half the people were swept away by the greatest famine recorded on history. Ever since that period, except in 1790, when a partial famine happened, the numbers have been gradually increasing. I do not know that the increase has been more rapid during the last ten years, than during the twenty preceding, though most of the abuses of the native government prevailed throughout the greater part of the last-mentioned period. Supposing the country to enjoy peace, I cannot easily conceive internal mismanagement so excessive as to stop the increase of population."

Had the increase of the revenue been attended with a corresponding amelioration in the circumstances of the people from whom it was derived, or had it even been unattended with any decline, there would then have been a fair inference that the wealth of the country was advancing. This was, however, by no means the case; the greater revenue drawn from India by the English government than by any native power, has been produced simply by two methods. First, by dispossessing many large proprietors of their lands, which, under their own rulers, they had held at a fixed and moderate rent, on condition of performing certain services; and, secondly, by taxing the whole people to the utmost pitch of extortion. The comparison which was once made in regard to England would be much more apt in India. Here every district (out of the limits of the permanent settlement) has been like an apple in a cider-press, while the collector turns the screw; and, when he has squeezed it to the extent of his power, makes over the handle to another; and he to a third; and so on. A collector is in various ways made to feel that his reputation and prospects depend upon his realizing a large revenue; and that a recommendation for a reduction in the amount of the assessment is only considered in the light of a register of his own inefficiency.

But let their income fail them by a pound,
 'Ware, 'ware, my friend, for this is tender ground.
 Gods! what a hubbub rises o'er his head;
 What sundry sharp and cutting things are said
 Of mere incompetence and sheer neglect,
 And what, if it recurs, he must expect.

India, a Poem.

We hear of certain men who enjoy a high reputation with Government as "crack collectors,"—"first-rate collectors." Such a character is by no means difficult to attain. A man has only to tax the people of his district at a higher rate than his predecessor, and his name is established. It may be asked, "If the assessments are beyond what the land can pay, how is it that people are willing to engage for them?" This is begging the question. It should first be proved that the engagements are *bonâ fide* voluntary. The people would give a very different account. The natural anxiety of men to retain possession of their hereditary fields will induce them to bear a great deal in hopes of better times; besides, ways and means are employed which would astonish many an admirer of the British administration, and which do not by any means tend to advance the credit of Government. Threats, intimation that the high assessment is merely to make a show upon paper, with hopes and even promises of remission in the collection, and even personal confinement and torture in various ways, are the modes adopted. I allow that such practices are openly sanctioned by very few of the English functionaries in the present day, whatever might have been the case formerly: some, however, there are, who have few scruples on the subject: others, again, are fully aware, in the abstract, of the existence of such abuses, but they cannot believe that they take place in their own districts: when questioned on the subject, they reply that "their native officers would not *dare* to do anything of the sort, *they* are much too vigilant in inspecting the conduct of their subordinates;" while the majority are kept in perfect ignorance of what is going on; and, partly from a consciousness of their own uprightness, partly from a dislike to admit facts which might be turned against them, when informed of such proceedings, indignantly refuse to give them credit.

These things are managed by their native officers, who are driven almost by necessity to do what is contrary to their better feelings, the injunctions they receive "to realize a high revenue" being imperative, and accompanied by threats of dismissal from their situations in case of failure.

The misfortune is, that when one of these "first-rate collectors" is succeeded by another, whose knowledge of the people and of the circumstances of the country enables him to discover the oppression and extortion practised upon them, and to perceive the unavoidable ultimate loss to Government, he is reduced to the dilemma of either still further impoverishing the former, and injuring the productive power of the country by attempting to realize what is impossible; or of subjecting himself to a reprimand or an intimation of his inefficiency, should he venture to represent the real state of things; and is doomed to bear the blame of the "falling off of the revenue" which has been occasioned by the extortion of his predecessor.

That I may not be accused of mere declamation, I will quote a few instances in illustration of these assertions, premising that I could give the names if necessary. I have now lying before me an authenticated copy of an order from a collector to a subordinate native officer to assess certain rent-free lands, to make up for the deficiency of the revenue of the Government-lands in the same village, which had been carried away by a flood. I have seen another in which the deficiency was to be made up by a tax of so much per head on the village. I am acquainted with a collector (on whose authority I state the fact) who once wrote to the Board of Revenue to obtain a remission of rent for a village, showing clearly at the same time that the farmers were unable to pay the sum demanded; that they had been for some time reduced to the necessity of selling their goods and even cattle, to enable them to do so, and it must end in their ruin, and the desertion of the village. The answer received was "that he had been too short a time in the district to be well acquainted with its affairs." When a collector recommends a reduction, or even does not propose an increase, his report is usually pronounced "not satisfactory."

In some districts, a landholder paying a rent of a thousand rupees per annum to Government, is considered well off if he realize a hundred for himself; and the sale of a farm, paying such rent, either by the collector for balances, or in satisfaction of a decree of the court, would not produce above a thousand or twelve hundred rupees. In another, the resignations of the zemindars, during the last settlement, amount to several hundreds, but they are told that these will not be accepted, and that they *must* keep the villages and pay the rent. The poverty of the people in these districts is almost beyond conception. Numbers of the cultivators get but one meal a day, and that but a scanty one; while some are actually obliged to eke out their food by gathering wild herbs and weeds. It may perhaps be imagined that this is mere assertion, but I can produce facts, names, and dates, in testimony of its truth.

In case I should mislead some of my junior readers who may be engaged in their first essay at "settlement-making," and induce them to be too plain and explicit in their proceedings and statements, I must here give them a hint by way of caution. Certain appearances must be kept up; it must never be openly stated that they have raised the revenue to its utmost limits; but they must in their official reports always profess to be on the lenient side. Their communications must be conveyed somewhat in the following language. "I would beg to assure the board that I have carefully avoided raising the demand to anything like the highest pitch." "I have steadily kept in view the interests of the landholders." "I have made every inquiry in order to secure to the cultivators a fair share of the produce of the soil, &c., &c. But at the same time I cannot neglect my duty to Government, whose fair rights and just demands must be enforced; and, so far from the settlement being too high, I confidently anticipate a still further increase in the ensuing settlement." Should these representations be followed by an assessment considerably higher than the last, the young man's character is established: should he be in the same district when the next settlement exhibits the result of this exorbitant taxation, (a very unlikely chance in the present system of constant change,)

“bad seasons,”—“opposition of the zemindars,”—“combination of the cultivators to defeat the just demands of Government,”—“land purposely thrown out of cultivation with a view to a lower settlement,” &c. &c. will form his excuses. Should he have left the district, and by chance be questioned on the subject, “the inefficiency of his successor” will be quite a sufficient reason.

Still, however, it will be maintained that the increase of population and cultivation is a proof of the prosperity of the country. Ireland has, within the last thirty years, nearly doubled her population, and much more land is now under cultivation than at the commencement of that period; yet no one will pretend to assert that that country is in a prosperous condition, or that it enjoys a good government, or even peace. The increase of population has been sufficiently accounted for by the quotation from the report of Sir H. Strachey; and since this has been the case, what were the people to do? They have not arrived at the climax of starving or cutting each other's throats, although crime caused by poverty has greatly increased of late years; therefore it is no great matter of surprise that some small portions of land which lay waste in the immediate vicinity of the large villages, in the populous parts of the country, should have been brought under tillage. But the question is, are the people on the whole richer or poorer than they were? Have anything like improvements in agriculture or manufactures been attempted? It is probable that impartial examination would show but very little. Besides, we should look for the result, not in the isolated patches of land above alluded to, but to the large tracts of jungle and waste lands in many of the districts. Have these been rescued from their primeval state, or are they not still the abode of the tiger and the hyæna? Along the whole forest-border of Barcilly and Moradabad the villages have been on the decline, and many which twenty or thirty years since were in a flourishing state, have been completely deserted.

The complaints of over-assessment are met by assertions that the amount of the revenue demanded has for several years been stationary in most of the districts. This is true; but are the circumstances of the people and the state of the country in the

same condition? On our acquisition of the Western Provinces, (as has been above remarked,) it was to have been anticipated that during the first few years of peace, a greater revenue would be realized than immediately subsequent to a period of war. The settlement of several English merchants and indigo-planters followed, whose great outlays and expensive establishments tended to counteract the constant drain of money towards the capital. In one district alone the sums annually spent by these persons are computed to amount to about thirty lakhs of rupees*; and in the whole of the Upper Provinces, it is probably no exaggeration to say that the total expenditure of British merchants exceeded eighty lakhs of rupees†, the greater part of which found its way into the Government treasury. It is no wonder that under such circumstances the revenue should for some years have rapidly increased; but it is astonishing that Government should not have sufficiently taken these circumstances into consideration, and should still continue to expect an increase of, or even no diminution in, the revenue, after the favourable causes which promoted it have, by the ruin of the merchants, ceased to exist.

We're always taking, and we never give;
 We care not if they die or if they live;
 Hard taskmasters! beyond a Pharaoh's law,
 We first withhold, and then we take the straw,
 Yet look to see the tale of bricks the same,
 If not, 'tis them, and not ourselves to blame:
 For joy or wretchedness, for weal or woe,
 We've one sole sentence, "Pay us that you owe."

India, a Poem.

But are there no other indications of the prosperity of a country but those of an increase of revenue and of population? Though the agricultural classes have been hard pressed, have not others benefited under our authority? Has no improvement taken place in the roads to facilitate the trade and communication of the country? Have no public works been erected to stand as monuments of the liberality and magnificence of the "Merchant

* Three hundred thousand pounds sterling. | lakh of rupees is, in round numbers, 10,000*l.* sterling. In the district of Aligurh, the merchants' outlay nearly equalled the revenue collected.

† Eight hundred thousand pounds sterling. A lakh is 100,000, a crore is a hundred lakhs, or ten million,—a

Princes" of India? Is there no accommodation for travellers over her vast plains and dark forests? Has not great encouragement been afforded to the production of manufactures, and all the arts and luxuries of life? As to the roads, excepting those within the limits of the civil stations, sixteen miles between Calcutta and Barrackpore is all that we have to boast of. In addition to this, the foundation of a road between Benares and Allahabad, and of one between Jubulpoor and Mirzapore, have been commenced; and an attempt is now making for another between Allahabad and Delhi; but, unless the construction of these roads be on a better plan, and the provision for keeping them in repair on a better footing, than has been the case with the attempts hitherto made by the English in road-making, Government might just as well spare their money. As an illustration, let any one look at the road between Calcutta and Benares. I assert without fear of contradiction by a proper committee of survey, that, notwithstanding the hundreds of thousands of rupees which it has cost, it is, except just after the annual patchwork repairs, which the first shower washes away, in no respects better than the common unmade Indian track. A few years since, Government were pleased to appropriate the town-duties to the improvement of the roads, and immense benefit resulted from the exertions of local committees in consequence; but scarcely were they carried into effect, when orders were issued to suspend all future works, and the duties were again carried to the account of Government; while no provision was made for keeping in repair what had already been done, for which purpose a very small expense would have been sufficient. Much of what was then done is already in ruin, and in a few years more the whole of it will be so. With regard to the accommodation for travellers, inns and houses of entertainment, or, as they are called in the East, *serais*, are generally considered as a test of the increase of wealth in a country. Of late years, undoubtedly, a few have been erected; but it is no exaggeration to assert, that for every new one, *ten* of those which formerly existed are going to ruin, and the heavy expenses which, for want of these conveniences, are incurred by the English Govern-

ment servants, would naturally, it might be thought, have made this a point worthy of attention. It may be said that the erection of inns should be left to private enterprize and speculation. The absence of them, however, is a strong proof of the general poverty of the country*.

On the point of trade and manufactures, the decline has been most alarming; and this would be proved by an examination of the different inland custom-house returns; but these would by no means exhibit the full extent to which its diminution has taken place. In the city of Furrukabad alone, within the last few years, between fifty and sixty bankers and wholesale merchants have stopped business. The manufactures have experienced the same depression, especially the cotton, one of the staples of the country. The finer manufactures of muslin at Dacca are almost annihilated; and within the British provinces the demand for shawls has so greatly declined, that it is difficult now to procure a good one; while I do not believe that out of Calcutta any new branch, or improvement in any old one, can be produced on the other hand. In all mechanical operations, except in Calcutta, the same coarse tools are in use, and the same clumsy modes of working practised, that are described by travellers two centuries ago. As to the luxuries of life, little, I fear, can be shown to prove the prosperity of the country. We do indeed see a few houses now and then erected of a better construction than formerly, in the large towns; but these, with scarcely an exception, belong to merchants and shopkeepers. The houses of the landed proprietors are almost universally gone or going to ruin, while mud-huts supply their place; and the numbers of those who formerly kept elephants, horses, and large establishments of servants, who are now reduced to the merest necessities of life, is almost incredible.

The following fact, which was given me by a friend not long since, will give some idea of the general poverty of the British subjects, and at the same time furnish an additional proof of the

* The absence of these conveniences obliges an Englishman, when travelling, (unless he goes post in a palanquin,) to carry with him tents, tables, chairs, bed, and many other articles.

wealth of that much-abused and never-failing field for declamation, Oude. He searched through Delhi, Agra, Furrukabad, and Cawnpore, without being able to procure the quantity of *eight yards* of black velvet in one piece; when, on going to Lucknow, he found at least twenty shops, in each of which were produced bales and bales of the finest velvets, of every shade and colour. Calcutta itself, he afterwards ascertained, could not supply for retail trade such an exhibition. The same superiority was apparent in the quantity of silks, and all other of the finer manufactures. The natives of India are as fond as their European masters of all articles of luxury and finery, when they can afford to procure them.

I could say much more on the points above alluded to, but it would carry me more into detail than the present limits of my paper will allow; and I must conclude with a few remarks on the reasons for the generally increasing poverty which has been exhibited as the condition of our British-Indian subjects.

The chief cause is this, that from the period of the British occupation of the country, it has been gradually drained of its richest productions, while no one who had the power has had any permanent interest in attempting any lasting improvement. Who among the English ever brought anything to India, except in the way of merchandize, to sell for a profit, which profit was immediately carried away? Yet how many hundreds have come out poor, have remained a few years, have made money, either by savings from their pay, or by trade, and then carried to England the whole of their accumulations? It is possible that any country can stand such a constant drain, or under such proceedings avoid being impoverished? As long as merchandize formed a good remittance, the productions of the country were carried away; but of late years large quantities of specie have been exported by those who were returning to England. It is said that, although they have failed to perceive the state of things hitherto, the exportation of specie has at length attracted the attention of Government, with a view, if possible, to prevent the ruinous consequences which must ensue from such transactions. They may spare themselves the pains, for until the system

be altered, nothing can check it; and India will continue to be impoverished until some explosion takes place. Government, however, still expect to realize the same revenue that was drawn before the country was exhausted, and when numerous merchants expended vast sums in various parts, which has now been stopped by the ruin of their affairs.

Other causes might be mentioned. Of these, the almost utter annihilation of credit and mercantile confidence by the encouragement which the proceedings of our civil courts have held out to dishonesty, is by no means the least conspicuous. I have also heard an opinion expressed by some well-informed men, that the establishment of English merchants, under the existing system, where they had only a temporary interest, by sufferance, were expressly prohibited from settling in the country, and finally carried away the amount realized by their labour, has in its results caused much more injury than benefit to the country, by raising an artificial state of things. But both these subjects will be treated of at large at some future time. It should also be borne in mind, that, as if the interests of India were in every instance to be sacrificed to the particular benefit of its English rulers, those of its productions which are in the highest estimation have been highly taxed on importation into the mother-country. On some, in particular on sugar, one of its staples, the duty has been almost prohibitory; and, until lately, certain articles, plate for instance, were positively restricted from being brought from India, and all this to support local interests and monopolies.

It is observed by some, that communications of this nature had better be made directly to Government; but there are several reasons to deter individuals from adopting that mode of bringing abuses into notice. The members of Government are influenced by feelings and interests like other men. Some may be willing to listen; others may be annoyed at what they may consider likely to throw discredit on themselves; and unless a man had an intimate personal acquaintance with the different individuals of whom the Government is composed, he cannot tell how far his statements may be favourably received. Again, some of the members of Government are so occupied with the ordinary

concerns of the country, that they have little leisure to bestow on any general plans of improvement; or even, as a necessary preliminary step, to investigate the correctness of opinions which militate against the established notion that India has benefited so greatly by being subject to the British authority. Besides, it is no new thing for these evils to be brought to the knowledge of Government. The different reports of the committees of the House of Commons, particularly the fifth report, have published sufficient to support every opinion I have from time to time advanced: indeed, many of them will be found in the official statements made by the different functionaries of Government thirty years ago. Yet it is only lately that any real attempt at improvement has been made; and although the present Government has evinced a desire to promote, in some degree, the welfare of its subjects, yet much cannot at once be expected. It is the rising generation of functionaries who must be incited to rouse themselves from inactivity, and to strike out new paths from the old beaten track. It is for them to examine and judge for themselves of the real state of things, and to learn from *the people* what is the true situation of the country, and the causes which have brought the state of affairs to their present low ebb. If those in authority will only divest themselves of prejudices, and acquire the knowledge they ought to possess, they will find the remedy not difficult either to discover or apply.

May 13, 1833.

No. XVIII.

ON THE REVENUE SYSTEM—LANDED TENURES—AND THE RYOTWAR SETTLEMENT.

It may seem presumptuous to attempt to discuss, within the limits of one of these papers, subjects so comprehensive as the above; concerning which, volumes have been written without bringing us much nearer to a conclusion than we were at the beginning. More, however, is not here intended than to endeavour to convey a general idea of the system in force. This

has been rendered necessary by my last paper, "On the Improvement of the Country." An endeavour was therein made to shake the generally-received opinion of the prosperity of India under the British rule, and to show, on the contrary, that its impoverishment had been the almost universal result. In a country like this, the first step towards improvement must be made by the landed proprietors; and the primary inquiry must, therefore, be, to ascertain what are the prospects and inducements held out to those connected with the land, to embark any capital upon it. The simple and natural inducements here, as in every other part of the world, must, of course, be, first, security of property; secondly, a certainty of reaping the benefits of any trouble or expense incurred. By examining the system hitherto pursued, we shall see what encouragement has been yet afforded on this head.

This, in a few words, has been to raise the land-tax as high as possible, and appropriate the whole amount to Government; with the exception of a bare sufficiency for the cultivators to exist upon, and to enable them to carry on their next year's agriculture.

On the subject of landed tenures, of the numbers with whom I have conversed respecting them, I have never met with two individuals whose ideas perfectly coincided; and scarcely one who had completely made up his own mind; a tolerably strong proof how little the matter can be really understood. It appears to me, that, whatever may be the case *de jure*, Government is *virtually* the proprietor of all the land in that part of the country to which the permanent settlement does not extend. It possesses (not by any right or justice, but by the assumption of might) the power to assess the revenue at pleasure; to demand what it pleases from the owners, farmers, cultivators, or whatever they may be denominated (often employing for this duty very inexperienced agents), and in default of payment it offers the land at public auction, to realize the sum demanded; at the same time fixing the assessment on the new occupier at its own valuation, and treating him in the same manner if he fails to pay it; and, as the *ultima ratio*, when the estate has, from such a mode of treatment, become so deteriorated that neither farmer nor pur-

chaser can be found, the collector is authorized to keep it in his own hands, and make the best he can of it, by renting it in detail to the different subordinate cultivators, or ryots. It is difficult to imagine stronger proofs of ownership than the power to rack-rent an estate in this way.

Such has been the plan adopted relative to the *khalsa*, or assessable lands; and, as if this were not sufficient to destroy all security in landed tenures, we have the special commission (Reg. I. of 1821), the Ryotwar Regulation (VII. of 1822), and II. of 1819, for the resumption of those fortunate tracts of land which had hitherto escaped the blighted system above described, on each of which I propose to say a few words.

First, for the far-famed Regulation VII. of 1822, whose mazes and intricacies have so bewildered the intellects of those collectors who have attempted to put them in practice. Every extraordinary production of this nature has generally some primary moving principle or mainspring, which, when divested of its outworks, or external case, will give us some insight into the nature of the effects it is intended to produce. The regulation in question was the work of a very clever man*, who was mainly guided by theory, but who was unfortunately deficient in that local knowledge and matter-of-fact experience, without which the fairest theories have failed. He had the general erroneous view of the prosperity of the country; conceived the people to be only *too well* off; and with regard to the collectors, that they were an idle race, and must be made to work; and that better occupation could not be given them than to fill the coffers of Government by every means in their power. Such, no doubt, were the ideas upon which his scheme was founded, though, from the tone assumed in the preamble, and in other parts of the regulation, a very different and much more philanthropic object was asserted for its end. It is there stated, that the intention was not to raise the revenue, but to equalize the burdens,—to record the rights, privileges, and interests of all classes,—to protect the subordinate sharers from the encroachments of the head farmer (sudder malgoozar)—in short, to assist the weak,

* Mr. Holt Mackenzie.

restrain the strong, and bestow as many benefits upon the community as were ever contained in any Chinese edict ; not forgetting the *just rights and demands of Government*. This is all very well, and serves its purpose, which is, to enable the Court of Directors to mystify the Court of Proprietors and the English public ; but those who are a little behind the scenes can hardly be deceived by it. This famous regulation is, in fact, a provision for reducing the country to a *ryotwar settlement* ; and a ryotwar settlement is—what ? Divested of its mystification, it is simply a settlement on this plan :—To get rid of the principal farmers for the different estates (who, of course, reap some little profit for their trouble and risk in managing them), and by making the settlement directly with the subordinate owners and cultivators, to realize for Government the share which the principal farmer formerly received. Disguised as it may be under fine-sounding phrases, this is the principle of a ryotwar settlement. The next points to be considered are, the feasibility and justice of the plan.

Its feasibility.—Let me, in the first instance, refer to my paper (No. XIII.) in which, in a few words, I attempted to explain the duties of a collector of the revenue ; and, in further illustration, let us suppose that the proprietor of a large estate in England, of some twenty thousand acres, were to be seized with the same idea, that, by getting rid of his farmers, and taking every farm into his own hands, he should save for himself the incomes that the respective tenants formerly acquired, and thereby increase his own rent-roll. Every operation of ploughing, sowing, reaping, draining, hedging, ditching, payment of labourers, &c., must, of course, be superintended by himself, or by some hired agent, who would expect to be paid, at all events ; and who would not have one-tenth part of the interest which the farmers had in conducting affairs for the benefit of the estates. The very mention of such a scheme in England would be ridiculed, from the utter impossibility of carrying it into effect to any end but that of losing money. But what would be thought of the scheme of deputing a young African agent, called a collector, in the already supposed case, who had little or no knowledge of agriculture, into a tract of country as large as the county

of York, or the principality of Wales, with directions to adopt this system over the whole of it? Yet this would not be more absurd than the attempt to introduce a ryotwar settlement in the north-western provinces of the British-Indian empire. There would be some difference in the parallel, which requires to be noticed. In England a farmer is, for the time being, the virtual owner of the farm he tenants. The land remains in his own hands, and all agricultural operations are performed under his direction and superintendence, by hired labourers. In India the operations are more or less conducted by the direction of the head farmer, or sudder malgoozar; but there is another difference in the detail, that, generally speaking, the work is not done by hired labourers. For the most part, the land is subdivided into portions of three or four fields, each of which is cultivated by men who possess their own plough and cattle, and who manage their own portion according to their own pleasure, as long as they pay their quota of rent. Almost without exception, the poverty of these men is so great, that without periodical advances of cash and grain for every crop, their operations would be stopped; and should one of their bullocks die, they must borrow money to buy another. Every village has its money-lender (*sahookar*, or *bunnea*), who makes the periodical advances, and is repaid at harvest-time. Should anything occur to prevent this, a great part of the village is immediately thrown out of cultivation. Well—the collector makes, according to his instructions, a ryotwar settlement; that is, he puts aside the head farmer, and gives a lease to each of the subordinate cultivators for his own share. For the moment matters promise well:—the head farmer, perhaps, paid a thousand rupees per annum to Government, and realized twelve hundred from the village—the settlement makes a fine show upon paper, the whole twelve hundred appearing to the credit of Government; but what is the consequence? The cultivators go to the money-lender for advances; but being unaccompanied by the head farmer, who formerly stood security for them, he refuses the usual loans, and the zemindar, or malgoozar*, will no longer

* Head farmer.

give his security, because the cultivation or neglect of the lands is no longer of any consequence to him beyond his own portion; the ryots then look to the collector for advances, which must be made, or the lands would all lie waste. He issues an order to the *tuhseeldar** to report what advances are necessary: in some cases, this officer will not move without his *douceur*; or very often has really such pressing business to attend to, that he cannot immediately make an inquiry; and frequently by the time the preliminaries have been gone through, and the advance has been granted, the time has passed when it might have been of any use. Should cattle die, the same round must be gone through before they can be replaced. As to any improvements, such as sinking wells, cutting canals, &c., all prospect of such is annihilated; no individual cultivator can afford it. Without a head to whom they all look up with some deference and respect to guide and advise them, they never will form a combination for this purpose; and the *zemindar*, having no particular interest in the matter, will neither do it himself, nor be security to the money-lender for an advance.

Let us consider for a moment the preliminary investigations, inquiries, surveys, and estimates, which would be requisite in every village before anything like a correct result could be obtained of the share of every individual owner and cultivator, of the nature and value of his land, the productions for which it is best calculated, and the rent that ought to be demanded. The collectors and deputies with independent jurisdictions amount to sixty-two; each has, on the average, 3,548 square miles of territory (or a tract of country very nearly sixty miles square), 3,772 towns and villages, and a population of above 800,000 souls, subject to him. A collector who attempts to do his duty, is already overwhelmed with more business than he can possibly perform to the satisfaction of the people; yet it has actually been imagined that a young man, a foreigner, selected by chance, who has never received any instruction in surveying or estimating the value of lands, can, with a few native assistants, who are as ignorant as himself, and who, like him, are fully occupied with the current

* Subordinate revenue-agent.

business of their situations,—it has, I say, actually been imagined that, thus employed, he can execute a minute survey over an extent of land nearly sixty miles square, containing 3,772 towns and villages, and a population of 800,000 souls; and not only this, but that he can actually manage in detail all the various and intricate transactions which the peculiar nature of landed property in India entails, with such an immense population!

So much for the expediency and practicability of the measure. Let us now consider the *justice* of it. The detail of carrying the measure into effect, has been attended, as might be supposed from a consideration of the means to be employed, with little else but injustice, even where the collector has been anxious to do his best. The shares of land bestowed on individuals seldom correspond to their real claims, while in some instances the measure has been as fraught with injustice as would have been the case had the owners and principal farmers in England been dispossessed of their lands, and these, divided into small portions of two or three fields, let out to under-tenants and labourers.

There are certain circumstances, however, under which a ryotwar settlement may be expedient. In some of the wilder parts of India, particularly among the hilly tracts, the land is in reality already divided into small lots among people who are the undisputed owners each of his own share, and where the boundaries of each division are distinctly marked. The people, too, are in better circumstances, and more independent of the money-lender,—in many cases perfectly so. These villages may have been farmed out to favourites and others, men totally unconnected with them, whose sole object and interest would, of course, be to exact as much as possible from the small proprietors, that they might have something for themselves, after having secured the revenue due to Government. In such a state of society, both justice and policy should prompt the dismissal of the intermediate dealers, and making the arrangements at once with the proprietors; which might, by dividing between them and the Government the portion hitherto taken by the middle-men, be rendered advantageous to both parties. Such is the state of affairs in Kumaon. But even there, it is found advisable to have

some responsible person to arrange the affairs of the village. This person is called *kumeen*, or *seana*. He is selected by the villagers from among themselves; and unless any malpractices be proved against him, or he gives up the appointment of his own accord, he usually retains the office for life, after which it often descends to his son. He is paid for his trouble by having possession of a field, which is exempt from duty to Government; and in some other cases receives certain trifling dues. His duties are, to collect the rent, and to carry it to the collector; to take the lead in performing any police duty that may be required; to superintend punchayet* in re-dividing and apportioning the lands in case of death among those proprietors who leave no heirs; to arrange supplies for a camp; and various other petty avocations. This is infinitely more agreeable to the villagers than to be harassed by visits of an army of police and revenue myrmidons, practising every species of extortion; and the difference in the expense to Government is immense. In the province of Kumaon (a tract of country somewhere about two hundred miles long, by about sixty broad) the whole expense of the revenue and police establishments is not much greater than in a single pergunnah in the plains. The *kumeen*, or *seana*, has no security for retaining his situation but his own good behaviour; and as at every settlement every man's name is entered on a list with the sum he is to pay affixed, which list each man signs, there is a very tolerable check against undue exaction; and, as the best check of all, the eye of the master is everywhere, for the commissioner is almost the whole year in camp, visiting every part of the district.

Very different, indeed, would have been the result had all these district proprietors been made totally independent, and the *kumeens*, or *seanas*, set aside, with, perhaps, a small per centage, but without any authority to direct any of the concerns of the village. Some specific local authority must be supported, and at the same time the greatest care must be taken to keep an exact register of the village lands, their boundaries, and all rights connected with them, together with a most accurate enumeration

* The native system of arbitration.

of every change that may take place ; and then, in the parts of the country above-mentioned, a ryotwar settlement *may* be made without a consequent deterioration of the country, and this is all that can be hoped for ; *improvement* being out of the question where the land is so independently subdivided, and where, of course, there cannot be any men of capital. Still, where these divisions have existed from time immemorial, it would be unjust to deprive any of their lands, even on the plea of general improvement, unless, indeed, with their free consent, due compensation having been made. But what shall we say to the plan of introducing such a system among the once wealthy and, comparatively speaking, civilized landholders of our north-western provinces, to whose habits and customs it is foreign and uncongenial, particularly when we consider, that in the attempt to carry it into effect, all the evil and none of the good that might result is brought into action ?

It will be necessary to offer a few preliminary remarks on the landed tenures of the provinces in question. My readers need not fear I am about to inflict on them any of those discussions to which I alluded at the commencement of this paper, which, as I observed, have left us nearly as wise as we were before they were entered into. I shall merely touch on some of the practical operations now in existence. In *theory*, as is well known, the principle in landed property among the Hindoos is equal division among the sons, with an exception in favour of the eldest, who ought to receive a somewhat greater portion than the others, on the consideration that he does, or is supposed to, superintend the general management of the estate. In practice, however, the most extraordinary confusion prevails that can be imagined, between equal division,—arbitrary and very unequal division,—and all but community of property ; a state of things which I will now endeavour to illustrate, arranging the instances by numbers, for the convenience of reference.

1. The owner of an estate, A, has four or five sons. At his death it does not at all follow that each will take his share, allowing the eldest some portion for superintending the estate. He may be indolent, stupid, and either unwilling or unable to conduct the

business; whilst one of the younger sons (perhaps even the youngest,) may be a clever, intelligent man; and he, by common consent, is chosen as the proper person to take the place of the elder. Of course, he does not neglect his own interest while acting for the others, and generally contrives to secure a larger portion of the lands for his own family cultivation than he is strictly entitled to.

2. At his death, one of his sons (not necessarily the eldest,) will probably succeed him in his office. Should he die before either of his sons are old enough to officiate, perhaps one of his nephews, (not always the son of his eldest brother,) who may have been a sort of favourite with him, may be vested with the superintendence of the family property.

3. Supposing he have no sons, but a son-in-law, who, since his marriage, has resided with him, instead of settling with his wife in another house, he will, in some instances, succeed in his endeavour to obtain it for *him*.

4. Then, again, one of the sharers dies, leaving a young family not capable of carrying on the agricultural concerns. With the praiseworthy kindness that exists among the Hindoos (and, indeed, among the Moosulmans too, in this respect), the widow and orphans are taken into the house of their father's brother, or some other relation, by whom they are supported, and who becomes their guardian, and takes care of their share of the lands. So far well. But it may happen that some members of this orphan family die; and others, as they grow up, leave their village to seek service, in which they often remain absent for years. On their return, they find their uncle dead, and his sons, or grandsons, in possession of the land, who are not willing to concede more than a small portion to the claims of the new-comer, and sometimes refuse it altogether.

5. Again, it will happen that of two or three brothers who succeed to their father's property, one may be an indolent man, who will be content to live with the others, and allow them to do what they please with his share of the property, provided they give him food and clothes just sufficient for himself and his family, while he makes himself useful in performing small domestic

offices, carrying messages, or any light work that does not require exertion. But on the death of himself and his brothers, it is very doubtful that their children, unless obliged by authority, would give up any portion of the land to his. The plea for refusing would be, that he had given up his share to their family, who had taken all the labour upon themselves, and had fed him in idleness; and that his children could not possibly pretend to claim it now. They, perhaps, have not the means of bringing the matter forward in a court of justice, and having no power to take the right into their own hands, are obliged to submit to their fate and labour for their daily bread; and their posterity, should they wish to assert their claim, would find it very difficult to substantiate it.

6. Another instance may occur, where one sharer may have a small piece of land and a large family of eight or nine sons, while his neighbour, who may be his brother, uncle, or cousin, even in the fourth or fifth degree, may have a considerable portion, and only one son. In this case, if the man with the large family have interest with the heads of the village for the time being, they will call a *punchayet**, and give over to him a portion of the land which either belonged to, or was in the possession of the other. What can he do? He cannot resist the whole village; and as to going to law, he too well knows the consequences of that desperate remedy, in the present state of our courts, to have recourse to so hopeless a measure. He does not, however, forget the claim, and either himself, his son, or his grandson, will bring it forward at the first favourable opportunity, to the utter perplexity of the authority for the time being; real proof, at such a distance of time, being out of the question.

7. Sometimes, again, a man dies, leaving no family of his own. In this case it is almost a lottery to whom the land will be allotted. Sometimes it is shared among his nearest relations in fair division;—sometimes one brother or nephew will contrive to secure the possession, to the exclusion of the others, who, as in the above instances, do not by any means forget their just claim; and sometimes a village *punchayet* will meet and give the land to

* Court of arbitration.

some very distant connexion ; or, in some instances, the zemindar, that is, virtually, the person who has for the time being the management of the estate, will, if he have sufficient power and influence, do so of his own authority.

8. Again, a man dies without issue, himself being the son of an only son, (or if there were other sons they may have died childless) &c., for three or four generations. In such a case, the want of records will have so obliterated the traces of the descent, that it is difficult, if not impossible, to fix on any one as having a right to the lands, and the manager of the estate (zemindar, malgoozar, or whatever he may be called,) being one of the sharers, as a matter of course, will dispose of the lands according to his own pleasure.

9. Occasionally, a man who has two or three grown-up sons will marry a second wife, by whom he may have one or two more, and perhaps dies, leaving them infants to the care of the sons by his first wife. When these infants grow up, it is rare that they succeed to their proper share of the lands, but they treasure up their claim notwithstanding, and are ready to bring it forward, like the rest, at any favourable opportunity.

Other usages might be mentioned which concur in throwing into confusion the ownership of landed property in the Upper Provinces, but these will probably be sufficient to show the extraordinary state of society and customs which practically exist, and have existed among the Hindoos from time immemorial. After such practices have been carried on in a village for centuries, in a country where no registers of births, deaths, or marriages are kept, except in the families of the very rich ; where no written records of any of the above transactions are preserved, except some slight memorandum by an officer called the canoon-goe, upon which, as well as upon the village accounts kept by the putwarree*, little or no reliance can be placed ; how very

* Extract from a letter from the Court of Directors, dated 18th February, 1824 :—"It is painful to us to receive such strong testimony as that which is here afforded, to the unfaithfulness of the putwaree accounts. The case, too, appears nearly the same with those of the canoongoes." These are two descriptions of village officers whose duty it is to record the village boundaries, changes in the occupancy of land, prices of gram, to keep a register of leases and rates of rent, and other matters of this sort.

difficult must it be to ascertain, in reality, to whom any portion of the land actually belongs.

To show that the above statement is not exaggerated, I annex a genealogical tree of the owners of a village near me*. From this it appears that, omitting those of the fourth generation, whose fathers are still alive, there are twenty-two sharers of the village. The amount of land in the possession of the different individuals is very different from what might, at first sight, be supposed. The manager, zemindar, or malgoozar, (that is, the person who is considered the head of the family and of the estate,) who directs its concerns, stands security with the money-lender, and performs all the functions above described, having held the situation for many years, is *Bisal*, whom I have marked A. The rest are perfectly satisfied with him and with his management, in which they have no wish to disturb him, with the exception of one person, Mangaloo, the eldest son of Bison (B), who brings forward a claim to half the village lands: according to the Hindoo law, his share would be about an eightieth part. Again, Hurree (C, who in reality is the owner of half the village,) does not actually possess a plough, or bullock, or hold a foot of land, but lives by working as a day-labourer: nor has he a thought beyond his present employment. The lands severally held by many of the others are by no means what they would be justly entitled to, if descent and Hindoo law are to be the guides, and it affords a tolerably just illustration of the statements I have made above. I would here remark, that this genealogical tree cannot be called positively correct, for no two people in the whole village agreed exactly in the lists they furnished, and, after all, I can only pronounce that it is the best I can make out. It was, indeed, a considerable time before the relationship of Hurree came to light. He himself was totally unaware of his claims: and the opposite party, the descendants of Punchum, were by no means anxious that they should be brought forward. Besides, there are many other Rajpoots in the village of the same tribe with those who are considered the owners of the lands, and the village has, in all

* For the genealogical tree, see p. 210.

probability, existed some centuries. Whence, then, did these men come? Who was the father of the two brothers at the head of the list? The grandfather? great grandfather? &c. &c. What have become of all their descendants? for it is very unlikely that for several generations only sons should have succeeded each other. All is blank—the very name of the father of Punchum and Bujun is not to be discovered. This is by no means a particular instance selected *for effect*. I have examined many villages, and might almost say *ex uno disce omnes*, so similar have been the results. And this alone may set at rest the fears of those who imagine the English settlers would soon dispossess the natives of their lands. They will find, as all those who have attempted it have done, the almost impossibility of what lawyers call *making a title*, quite a sufficient bar. Rarely can above two or three, or at the utmost four, generations be traced: in these there will be great doubt and uncertainty, and the portions of land held by the different individuals will be found irreconcilable with any principle whatever, and only to be accounted for by the prevalence of the customs I have above described. The difficulty of deciding claims to landed property under such circumstances may be imagined; and, indeed, those civilians who have been a considerable time in the country, and have given great attention to the subject, have candidly avowed it. I have heard some even go so far as to say that they hardly ever gave a decision regarding land, in which members of the same family were the parties concerned, with which they were themselves satisfied; and that, in general, the most that could be really ascertained was, that each party had some claim. I have certainly met with others who appeared to regard it by no means so difficult a question, but they were, generally speaking, very young men, who had not given much real attention to the subject, but supplied their deficiency by a very high idea of their own qualifications.

Nevertheless, extraordinary as all this may appear, and although, in many instances, individuals have just cause of complaint, the natives are, for the most part, content with their own customs and modes of proceeding; they look up with respect to

the elders of village, and in particular to the zemindar, or person who retains the management of it; they are perfectly sensible that without his assistance its concerns could not be carried on, and consider it quite reasonable that he should realize a tolerable income in return for his trouble and responsibility. Above all, be it remembered, that, until ground down by extortions which are without a parallel, the country had, under this peculiar and extraordinary system, arrived at a very considerable pitch of prosperity.

But what shall we say to this famous Regulation VII. of 1822, of which the fundamental principle is to destroy whatever good did exist under the ancient customs of the people, without supplying its place with anything else? And for what?—to raise a still higher revenue for Government. I repeat again, the principle of it is to get rid of the manager of the estate and head of the family, and assess each portion separately; by which proceeding Government hopes to realize his share for itself. Who is now to take his place in all the various duties that have been enumerated, or to superintend any improvements, such as digging a well, or cutting a canal, apportioning the land in the different cases (particularly that instanced in the eighth illustration)? Who will head the villagers in assisting the police, in superintending the furnishing of supplies to a camp; and, above all, who will furnish the periodical advances, without which the greater part of the cultivation would be at a stand?

Can the collector do this in his 3,772 villages? Or the tulseeldar in the 628 under him*, to any good purpose? The experiments that have been tried certainly do not afford much reason to expect it. Were the system carried into effect in the village, for instance, of which I have given the genealogical tree, the consequences would be these:—Bisal, the present manager, with two or three of the others, would carry on the share of cultivation which might be allotted to each, on their own funds; a few of the rest might be able to get credit, and so procure advances; and the lands of the others would at once be thrown out of cultivation. The peculiar nature of settlements made on

* On the average, there are about six tulseeldars in a district; so that each has under him 628 towns and villages.

this principle has been, that at first all promises well, and the revenue looks large upon paper. But I believe that, without one exception, the ultimate result has been loss.

It may probably be asked, how is it, then, that Sir Thomas Munro and other able men have so strenuously supported the plan under discussion? In the first place, some of these individuals have, like the author of Regulation VII., been men of theory, who had had little opportunity of acquiring a knowledge of the practical detail. Sir Thomas Munro, however, was certainly not one of these. But I believe that in that part of the country in which his first essay was made, the state of things was such as I have described at the beginning of this paper to exist among the hill tracts. The temptation, however, to obtain a large revenue for Government seems to have been so great, as to allow his zeal to run away with his discretion, and to have induced him to carry matters too far; for the official reports from the Madras presidency inform us, that in the ceded districts, after twenty-one years' experience of his famous ryotwar settlement, the revenue has fallen off ten per cent. The idea of introducing such a system in the upper provinces of the Bengal presidency, is, indeed, only to be compared with that of attempting to conduct the affairs of the army without any commissioned officers, excepting the general and his staff in each division. In point of economy, it would show well at first; the expense of the army would be infinitely less than it is at present, Government would save a large sum, and possibly, by allowing each general officer two or three additional aides-de-camp, and making him and his staff work day and night (as the collectors are expected to do,) in superintending the different regiments under him, together with the habits of discipline which would more or less remain, some sort of order might be preserved for a short time. But what would be the end of all this? In those districts where Regulation VII. of 1822, has been some time in operation, the native society is gradually becoming as disorganized as the army would be under such a system. There is no one to take the lead, or direct the people in anything which may tend either to their own benefit or that of Government. This is particularly

apparent in the vain endeavours of the different magistrates to induce the people to assist the police, and to make some exertions in protecting themselves from robbery and plunder.

There is certainly one part of this Regulation VII. which is good, or rather would be, were there a proper provision for carrying it into effect. I mean the intention to ascertain correctly the portion of land belonging to each individual in the village. But upon what principle was this to be effected? Upon that of the Hindoo law?—according to the arbitrary and extraordinary customs that had hitherto prevailed?—or according to the actual possession of each individual?—or by some mixture of all three? In certain cases, actual possession is declared to be the basis of the inquiry. But the details required by the regulation are so voluminous, that the execution of any part of them in an efficient manner is totally precluded[†]. Besides, supposing after all these difficulties had been surmounted, some village or tract of land has been fairly settled, and divided among its different owners; still nothing has been done to prevent all the different customs and practices above alluded to being subsequently brought into action, in each separate portion of land, among the members of the family of each proprietor. Some rule should have been enacted, either to oblige each proprietor to make a will, or to declare the share to which each of his sons was to succeed; the same being accurately marked off, and the boundaries designated. Or immediately upon the death of their father, the sons should have been obliged to do this. Whatever might have been thought most expedient, some measure should have been adopted to prevent the sort of community of property which, in many cases, will exist in the different families, and the subsequent confusion and existence of undefined rights and claims which will otherwise undoubtedly be generated. But nothing has yet been done to guard against this for the future, and the consequence will be, either that some thirty or forty years hence the whole must be done over again, in each of these separate

* The accounts required by Regulation VII. of 1822, for one village of only moderate dimensions, will fill paper that binds into a *thick quarto* | *volume. Vide Letter from Messrs. Fane and Tilghman to the Governor-General, dated May 25, 1831.*

portions of land ; and to accomplish this, when the subdivisions will be so minute, and the claimants so numerous, will require some new Regulation VII., with a collector in each purgunnah* ; or, if left to the civil courts, will so overwhelm them with business that they will be in ten times worse a state than they are at present.

The practical result of the introduction of Regulation VII. has not been productive of satisfaction to any party. Some of the younger collectors, indeed, are, I believe, sufficiently satisfied with their own proceedings, and fully persuaded that they have done wonders ; but if the people were asked, a very different answer would be given. The amount of land entered in their registers as the property of different individuals, rarely corresponds with that which they have in their possession and under their cultivation. I have good reason to know this, in the result of attempts to procure the execution of decrees. As a last resource, application is made to attach the debtor's landed property, for which purpose a proceeding is sent to the collector to ascertain what portion of land belongs to him. Often and often the answer is received, that his share amounts to twenty, ten, or five acres ; sometimes that he has none at all ; when it is notorious in the village, that the individual in question has the undisguised possession, control, and management, of fifty or a hundred acres, or more ; upon the strength of which possession he has borrowed the money for which he is now sued ; and very often it is for the cultivation of this very land that he has received advances.

Let us now consider the effects of the Special Commission Regulation (I. of 1821). The purport of this regulation must now be familiar to most of my readers, and is, of course, explained in the preamble, which is calculated greatly to disturb the visions of those who are so fond of descanting on the blessings which the people of India have derived from the British government. The plain English of it is this,—that in the western provinces the all-absorbing idea of realizing a large revenue had been

* Purgunnah is a subdivision of a 'district, or county. Parish, or hundred, would perhaps be the most synonymous English term.

productive of the most unjust confiscation of numerous estates ; and that the courts of law established by our Government are totally inadequate to afford protection and distribute justice to the people. Let any one read it carefully, and judge whether this be exaggerated. The injustice was considered so great, that it was thought necessary to appoint a Special Commission to inquire into these proceedings. The powers granted were most ample, and extended to taking cognizance of every sale by a revenue-officer ; of every transfer of lands which might appear to have been caused by any act of a revenue-officer ; and, generally, to almost any private transfer whatever. (See section 3rd, and its different clauses.) I insert clause 3rd, as follows :—“ It shall likewise be competent to the commission to annul private transfers, whether effected by sale, gift, renunciation, or whatever mode of conveyance, in cases in which they shall see reasonable ground for believing that the purchase or acquisition was effected by violence, extortion, or oppression, or by undue influence, of any officer of Government, in whatever department of the district within which the land transferred may be situated, or of the surety of such officer, or of any relation, connexion, or dependant of such officer, or surety ; or that any fraud was practised by the purchaser, or undue advantage taken by him of the ignorance or fears of the seller.”

Let any one who is acquainted with Indian customs, and the state of society among the people, read this with attention, and then judge what portion of transfers of landed property could escape being brought under the operation of this regulation. And Regulation I. of 1823 gives a still greater latitude. The commission also had still further the power to interfere with the decisions of the courts of judicature in regard to cases of the above nature ; and, generally, to reverse all sales, transfers, and decisions, which they might consider illegal or unjust.

The appointment of such a commission, with such extensive powers, is of very questionable policy. Undoubtedly the original injustice in selling the lands without sufficient reason was great ; and where it could be fairly proved that the measure had been hurried on by an officer, or other dependant of a collector, and

that he himself was the virtual purchaser, and still retained possession, it would be but an act of justice to restore the lands to the original owner, or to his descendants. But where the lands had been again sold by the first purchaser, whether such as above described or not, and were in possession of a person who had paid a fair price for them, and had had no participation whatever in the unjust or illegal proceedings referred to; or where they were in the possession of any one who had bought them fairly and openly at the Government sale, without being in any way a party to the improper part of the proceedings; what can be said to the injustice of depriving such men of the lands they had purchased on the faith of Government? There are many of the latter description; for the lands sold were by no means, in every instance, brought to the hammer by undue influence of natives in authority, or bought by them, or their relations. In many cases the sales were hurried on by the impatience and ignorance of the collectors in attempting to manage the people; and though it is true that the lands were sold for less than their value, wherein is the purchaser to blame, who had no concern in the previous proceedings, and who merely bought the estate as a good bargain? Yet he, or the person to whom he may have resold it, is forced to give it up for a very inadequate compensation. The Regulation, indeed, (section 3rd, clause 8,) declares, that "his claims shall be entitled to a very liberal consideration," but the sums that have been awarded have been most inadequate.

The Regulation in question seems to have been disapproved of by many of the best-informed men in the service, for the time being; and Government seems to have been aware of the delicate nature of the ground on which it was treading, and evinced a laudable caution in enforcing its provisions. Select men were chosen as commissioners; their operations were limited both as to time and place; and other select men were appointed to supervise their proceedings. But all at once these extraordinary powers were delegated to every commissioner in the whole of the north-western provinces, to be exercised by each in his own jurisdiction, and the cognizance of suits extended to all cases which had occurred up to 1829. The effects of the regulation

have verified the prophecy of one of the ablest members of the civil service. On its being shown to him, and his opinion asked, he observed that there was a slight mistake in the title, which should have been, “A Regulation for destroying all security in landed tenures, and all confidence in the Government:” and that then he had no doubt it would be found well adapted to its end. I am aware that, comparatively speaking, but few have been dispossessed of their estates under the operation of the regulation: but that has not lessened the evil it has produced; the mass of the people know nothing of our regulations, and are unable to understand any distinction in the sorts of cases of which that in question is authorized to take cognizance. All they can comprehend is the simple fact, that individuals who purchased estates at the Government sales fairly and openly, without having had any participation in any improper transaction, as well as those who have paid a fair price for their lands to others who bought them at the sales of Government, receive the same treatment with the oppressive native officer, who by dishonest means had caused the sale of an estate that he himself might buy it for so much less than its value. The remuneration given being, as I said before, very inadequate, the universal remark is, “What confidence can be placed in any future measures of Government?” The one we are considering has had great effect in lessening the amount that would have been realized in sales of property, either by a collector for arrears, or by order of a court of justice in satisfaction of a decree; and the people often ask the question, whether there is any probability of a commission being established to revise and reverse sales of the latter description?

I come now to the consideration in a few words of Regulation II. of 1819, for the resumption of lands hitherto held free. If Government have reason to believe that many of these tenures are held upon forged documents, it is no more than their duty, and perfectly consonant to justice, to investigate such cases, and resume the lands which may be proved to be so held; but they should have borne in mind that the investigations and decisions should be speedy, final, and good. Had there been a proper provision for this purpose, there would have been little to com-

plain of: indeed, all those who were conscious of the validity of their deeds and tenures, would have rejoiced at having the matter finally set at rest; but, as the inquiry has hitherto been conducted by the different collectors, it has produced little but doubt, uncertainty, and injustice. No man whatever feels himself secure; they are at the mercy of all the official menials who threaten to put their estates *in Chancery*, (for an inquiry under this regulation is much the same) by way of extorting a *douceur*; and the effect it has had in putting a stop to any improvement on these estates, would be perfectly astonishing were it not the natural result of such a state of things.

Let us pause for a moment, and take a slight review of the different subjects touched upon in this paper, and consider the absolute non-existence of the fundamental preliminary to any improvement; namely, security of property, and the hope of reaping the fruits of any trouble or expense incurred. Something must indeed be done, and that speedily; it has become imperative on Government no longer to delay attention to the rights and interests of the people. At the present moment, no one connected with the land feels a day's security in his possessions: the poverty of the people is almost beyond belief; and this, joined to the almost entire disorganization of the native society, is causing a rapid increase of crime*. The existence of a complete system of river piracy between Allahabad and Agra, for the last year and a half, has been mentioned by others; precisely the same has been going on on the Ganges, between Allahabad and Futteh-ghurh, for the last three years; but the magistrates of the districts on that line have the convenient *scape-goat*, Oude, which bears all the blame, although the robberies are committed much more frequently on our side the river than on the other. They are planned, and the gangs are formed, by the residents in our territories, with some few friends and relations, natives of Oude, who may be *invited* to join; a fact

* The state of Ireland is an illustration. That country has been practically *enjoying* a ryotwar settlement for many years. The owners of estates are absent, and, as far as the peasantry are concerned, it is the same as if Government in England received the rents. Large farms are few, and the land is divided into small lots. What is, and has been, the state of that country?

perfectly well-known to all the people and police; and whose answer to any one before whom they are not afraid to speak freely, in reply to inquiries on the subject, is usually to this effect, accompanied by a sneer:—"It is very well for the magistrate to talk of Oude, but no banditti or thieves from thence would dare to show themselves on this side, unless when invited and supported by our own people." Thefts of grain, both in fields and by robberies of houses, are of nightly occurrence. What, then, is to be done? In the first place, Government must learn that it has not pleased God to give into the hands of a few foreigners the charge of such an empire as British India, solely that they may extort the utmost possible from it for their own benefit. The welfare of the people no doubt was intended; and unless we choose to be considered in the light of instruments in the hands of Providence to punish them for their misdeeds, the neglect or fulfilment of this intention will be one of the points for which we shall be called to account. Our covetous desires for revenue must not only be limited, but in some cases diminished. It is impossible, from the impoverishment of the country, that the people can pay what they have hitherto done. In some of the districts in the upper provinces, were the present demand declared permanent, it might, perhaps, be fixed at its present amount, on the whole, though some modifications might be made in the detail, but in others the diminution is imperative, to the amount of from five to ten, or possibly fifteen per cent., on the whole district. Furrukabad, Khanpoor, Alligurrh, Bareilly, and some parts of Secharunpoor, are in this state: the three former, chiefly, from the decline of commerce, and the ruin of the English merchants and indigo-planters, whose outlays in those three districts alone probably amounted to about sixty lacs*, while the demand on the part of Government has not been diminished; the two latter, from having been cursed some years ago by a *first-rate collector*, who, to raise his own credit with Government, was the ruin of thousands. The state of these districts is perfectly well known to most of the local officers (those excepted who are blinded by ignorance or indifference), but they dare not recom-

* Six hundred thousand pounds sterling.

mend any reduction. "It would (they think) be as much as their place is worth." But the truth of what is asserted will be apparent ere long. If a small remission be granted now, the remainder may be realized for the future ; if it be not, Government will, in the end, lose much more than the present temporary gain.

This done, it is time to place some limit on the further demand for revenue ; and I would strongly advocate the expediency of declaring it now to be at its maximum : at that it would not be increased ; at least, that the total amount assessed for each district was to remain at its present amount, although some slight variation might be made in the detail. The collector should be restricted to realizing the revenue, deciding summary suits for arrears, or over-demands of rent, and other minor local matters ; in which duties, if efficiently performed, he will find quite enough to occupy himself ; whilst his establishments, both English and native, covenanted and uncovenanted, might be greatly reduced.

Some people are adverse to a perpetual settlement. They say that Government would give up too much, and advocate a long lease, for twenty or thirty years, with the assurance that the revenue should not be raised, even at the end of that period, unless there was an urgent necessity. It is very doubtful whether any improvement would be attempted under such circumstances. The people have not at present sufficient confidence in the good faith of Government to induce them to give any credit to such an assurance ; and matters would go on as at present, when land is often thrown out of cultivation in the hopes of procuring an abatement in the assessment. Nay, to such a pitch has this been carried, that during the latter years of the existence of the indigo-planters, when the landholders let them their lands, it was a common stipulation, particularly in the Alligurrh district, that no wells should be sunk, and nothing of any kind attempted which could tend to a permanent improvement of the lands. Many people actually lament the permanent settlement in Bengal ; and some have really proposed to infringe upon it, as if it were intolerable to see a native in good circumstances. They point to the improved state of the lands, and sigh over the revenue which is lost to Government ! But they forget to inquire how much of

this improvement would have been effected had the rack-rent⁷⁰ system have been followed. There is no reason to suppose that the result would have been different from what it has been in the upper provinces; where, although the paper statement of the revenue may have for some years remained the same, or even slightly increased in some instances, the amount realized, deducting balances, is less than it was some years ago; while the people have been impoverished to the verge of ruin. It is said, that in a given tract of country, the *net revenue* of a permanent settlement province in Bengal is larger than what is derived from an equal tract in the upper provinces, which may easily be true, when we consider the small establishment required for its collection in the former, and the very large and expensive one necessary in the latter. Besides, we should also take into consideration the number of rich landed proprietors, many of whom reside chiefly upon their estates in the settled districts, and compare this with the state of those in the upper provinces, who have been almost all ruined.

The next point will be, to carry into effect the good part of Regulation VII. of 1822, wherein provision is made for accurately defining every man's share, and the rent he is to pay. To do this efficiently, a commission should be appointed, which should have no other duty to attend to. This commission should consist of a surveyor and a revenue-officer, who need not be men of the highest class upon large salaries. There are many young men who have been educated in the Surveyor-General's office, and have been employed in different surveys, who are perfectly qualified for the task, and who would rejoice to be employed upon very moderate salaries; and for their colleagues, such head assistants might be appointed as are available; and to assist them may be found many others, both English and East Indians, who have been accustomed to agricultural pursuits in their capacity of assistants to indigo-planters, with a few natives, who, after a little instruction, would soon become qualified to perform the detail. Their joint duty should be to form an exact register of land in the actual possession of each person being a sharer in the village—what portion is calculated for the *rubbee*—what portion for

* *Rubbee* is the spring crop, sown in October or November, reaped in April and May. *Kharreef* is the autumn crop, sown in June and July, reaped in September, October, and November.

the *khurreef*—and how much is waste, together with the rent he at present pays for it. Further detail would procrastinate the matter so as to render it hopeless. The boundaries to each division should then be made, and correctly noted ; and a skeleton map constructed. The rights of each person to the land he occupied should not form any part of the inquiry of this commission, which should be confined to the points above-mentioned ; and it should be declared positively that the possession of no one should be disturbed, except by the decree of a court of justice. As many of these small commissions as there are people available, should be deputed into the interior of a district, and a superior commission, consisting of a surveyor and revenue-officer of superior grade, should be appointed to superintend the proceedings of the others, so that these might be immediately revised ; and, if approved of, be pronounced final regarding that particular inquiry. This plan would not be so expensive as might at first sight appear ; and it would at least be a commencement towards some permanent arrangement of landed tenures and revenue. Had it been adopted in 1822, at least one-half of the upper provinces might have been completed by this time. When the lands of one whole district shall have been surveyed and registered, it may then become a question whether any internal distribution of the revenue should be modified. Thus :—suppose two villages, containing equal population and equal lands, both with regard to quantity and quality, are bound to pay, the one 900 and the other 1100 rupees a year ; it might be ordered that each should pay 1000. The expediency of this, however, is doubtful, and the inequality, provided it be not something enormous, may perhaps be a less evil than the shock which may be given to the credit of Government by any alteration after an intimation of the permanency of the present demand, should such be given.

It may be said that all this is no more than has been provided for being carried into effect by the collectors, under Regulation VII., and by the revenue survey. With regard to the former, no one who had the least idea what the current duties of a collector really were, could for a moment suppose that he could possibly give attention to the details required by that regulation ; besides which, but few of the collectors know anything of sur-

veying, or estimating the value of lands. How should they? They have never been taught, and this knowledge is not to be acquired by instinct. The consequence is, that the matter has been left to a few natives, clerks and measurers, (mootsudees and meerdahs) who were as ignorant as themselves; and the productions by way of "Settlement papers" are so incorrect and inconclusive as to be useless*. The revenue survey, however intrinsically accurate, from not having been conducted in concert with the collectors, is practically of little advantage, although the expense has been great†. With respect to the persons from whom or through whom the Government revenue should be realized, where any individual was able and willing to manage his own share, and pay his own revenue direct, it would perhaps be expedient to allow him to do so; but when the subordinate sharers, through want of capital or credit, preferred paying through some one who was considered the head of the family, it would be highly inexpedient to prevent this, by giving them independent pottahs (leases). And here I will venture a remark on what are called "*the rights of cultivation*," which tenants are by some supposed to possess, while the proprietary right of land belongs to others. These are certainly difficult to be understood. If the right of the tenant be to cultivate the land at a fixed rate, while the Government demand from the owner is unlimited, the land must ultimately come into the hands of the Government. But when matters have arrived at that pitch that the owner, finding it no longer profitable to retain his land, throws it up, what is to be done? Government have assumed the right of demanding rent to any extent from the present owner, while under the above rule he is only to levy a fixed rate from the cultivators: when the land virtually comes into the hands of Government whose right is to be set aside? that of unlimited demand on the part of Government, or that of the cultivators to refuse to pay more than what

* The high idea some entertain of their qualifications is amusing. I actually knew one young man who declared that he did not want any survey; that he would gallop ten miles across the country, and return with a perfect idea of what each field he had passed through was calculated to pay. A few packs of hounds and fox-hunters would soon settle the whole country.

† This has been officially asserted, and not contradicted.

has been pronounced the fixed rate? If the owner be at liberty to demand what rent he pleases, in which case he must have the power of ousting the tenant who refuses to pay, the right of the latter cannot exist. If the tenant be seised with the right of occupancy, subject to payment of a fair proportion of rent, varying with the Government demand, who is to determine what this "*fair proportion*" shall be, or to settle the disputes which will inevitably arise between from one to three or four hundred thousand ryots and their landlords? Overwhelmed as every civil office already is with business more than can be performed, such a custom as this will and must resolve itself into unlimited demand on the part of the landlord, with the power to oust the tenant who will not pay. And such I believe to be the real right of the case, that they are mere tenants at will. But in India, every situation held for a long while has a tendency to become hereditary, (kazees, canoongoes, putwarrees, &c.) and the natives of all classes are peculiarly ready in advancing claims.

In suits for the proprietary right of lands, provision should be made that every decision should distinctly specify, by reference to the above maps and registers, what plot or plots, or portion of the same, was decreed. Where it was necessary to divide a plot, boundary marks should be immediately erected, and it should be explicitly declared what proportion of the Government revenue of the whole should be demanded from the portion decreed, and what from the remainder. In the event of a person dying leaving more than one son, some provision should be made to prevent the continuance of the confused customs above adverted to. Every endeavour should be made to induce each proprietor, before his death, to apportion the share of each son both of land and revenue; and where this was not done, some rule should be enacted, to make a similar division to that proposed in the decrees of civil courts, between the sons, immediately on their accession to their father's property; with a penalty for the omission. One great benefit of this system of exactness would be the check which it would ultimately give to the system of equal division of landed property among sons. When it became apparent that no one could, by the practices and customs before alluded to, obtain posses-

sion of the land of his relation or his neighbour, but that each must confine himself to his own share ; the impossibility of subdivision *ad infinitum* would soon become self-evident ; as the different portions became too small respectively to support a family, numbers of them would be for sale ; and where they adjoined, opportunities would be offered for men of skill and capital to create tolerably-sized estates, which would be worth some trouble and expense to improve.

I have now only to offer a few observations on the Special Commission and Rent-free Regulations. If the investigation of these matters be still considered expedient, some proper provision must be made to perform the necessary duties. Neither the commissioners of divisions nor the collectors have time to do them. The only efficient mode of relieving the people from the evils of insecurity will be to re-appoint both the Mofussil and Sudder* Special Commission. A period should be fixed as a limit for the preferment of claims, both by individuals and on the part of Government, beyond which, on no account should any claim be attended to ; and care should be taken that they should be speedily and finally adjusted. In those cases in which the present occupier of the lands is the identical person by whose fraud or illegal proceedings they were originally sold, it would be but just retribution to oblige him to restore them ; but where the possessor has had no share in any improper transaction relating to the lands, it is highly unjust and inexpedient to do so. In such cases let Government atone, as far as possible, for its own injustice ; let the present owners retain possession, and let the original owners be reimbursed from some part of the sum accumulated in the treasury, and which is otherwise destined to enrich the proprietors of India stock, and afford an argument for the Directors to adduce in proof of the flourishing state of the country. Let it be carefully proclaimed to the people, that such is to be the rule of guidance to the commission, and then Government may enjoy the credit of a measure of real justice.

Let me once more urge the necessity of doing *something* to

* District and Central are perhaps the best English terms for these two words.

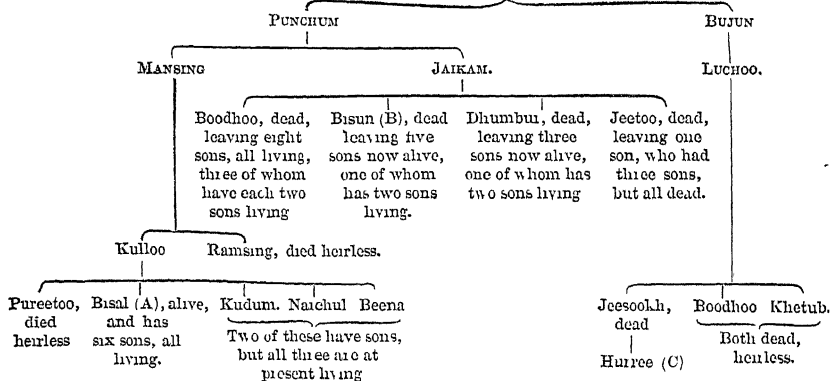
check the insecurity that exists, and the gradual deterioration which is taking place. Were we to cut the Gordian knot, and at once declare (as was indeed done in many instances in Bengal,) that the head of the family should be the sole owner of each estate, if a permanent settlement were coupled with the measure, it would be better for the country, and productive of not more injustice than is at present consequent upon the existing system of insecurity and eternal change of plan. But there is no occasion for such an extreme measure. If Government will only have a little patience, and not attempt or expect too much, there is every prospect of some arrangement and settlement being made within a reasonable time.

Almost every assertion and opinion herein advanced, particularly those adverting to the evils of the present system, will be borne out by different official documents: but as most of these are in print, and accessible to those who are interested on the subject, it is needless enumerating them. I will merely advert to one,—viz, a letter from the Sudder Board of Revenue on deputation to the Secretary to the Governor-General, dated May 25, 1831; because its plain common sense is so conspicuous in contrast with the incomprehensible mystifications of the Mackenzie school.

June 19th, 1833.

GENEALOGICAL TREE, referred to at page 193.

Two brothers, who lived about eighty or ninety years ago, and shared the village,



Want of room prevents the fourth generation being given at length; but this will be sufficient.

No. XIX.

ON THE INTRODUCTION OF THE ENGLISH LANGUAGE
INTO THE COURTS OF JUSTICE.

IN my former paper, "On the Use of the Hindostance Language," (see No. V.) I entered so much at large into the subject, that I have little hope to be able to advance anything new or original in the present instance. But if public report be true, that Government has it in contemplation to introduce the English language into the courts of justice, and render it the medium for the transaction of business throughout this vast empire, it becomes every day more and more important to inquire into the wisdom and expediency of such a measure, the effect of which involves a question of no less moment than this: whether or not the natives of India shall be totally precluded from the means of obtaining justice at the hands of their present lords and masters.

I cannot believe it possible that those who advocate such an intention can have given it the full and deliberate attention which it requires, or taken into consideration the character and condition of the various nations upon whom it is to operate. I cannot imagine that any one who had done so, even in a general view, without entering into all the detail necessary to the formation of an accurate judgment, could for a moment anticipate success in such an undertaking. For, what is proposed? Actually to attempt to teach a hundred millions of illiterate people (the greater part of whom are so poor, that labouring, as they do, from morning till night, a bare subsistence is all they are able to procure,) to acquire a foreign language; instead of obliging a handful of foreigners, all of whom are more or less men of education, and who, at the commencement of their career, have considerable leisure at their disposal, to learn that of the country under their authority!

The arguments advanced in favour of this measure are these: 1st, That considerable abuses exist in every department of Government;

2ndly, That it will enable the civil functionaries to understand the papers and proceedings brought before them, of which at present they have a very imperfect comprehension; and 3rdly, That it will tend to the general advancement of the natives in knowledge and science.

The two first reasons undoubtedly contain much truth, on which I shall enlarge presently. With regard to the third, I conceive that the *first* object with every government should be the administration and distribution of justice to the people.

The attempt to aid their improvement in knowledge and science is, no doubt, laudable; but we must first place them in a situation where they shall have leisure and opportunity for such improvement; we must give them security in their property, and relieve them from the anxiety and disquietude attendant on their present impoverished and dependent state. Men who are in hourly dread of oppression, or who are struggling for their daily bread, can have little inclination for intellectual study; and whatever progress they may hereafter make in this path, must be under very different circumstances from those which at present influence the majority of the natives of this country.

Let us first consider the practicability of the plan: and here, if we may judge from experience, we should certainly pronounce against it. The Normans in England, the Moosulmans in this country, and, indeed, every conquering nation that has made the attempt, have failed; unless, indeed, where the original inhabitants have been exterminated. Why, then, should we flatter ourselves with the hope, that under so much greater disadvantages, (inasmuch as our numbers are so much fewer than those of any other conquerors,) we shall be successful here? It is very doubtful whether our empire will exist long enough to effect a tenth part of the change in the current language of the country that was produced by the Muhammedan conquest. Yet, just as the Hindostanee language has acquired a settled form, we are going to overthrow this work of centuries, and attempt another innovation.—Why?

Because, in the first place, considerable abuses are in existence in every department of Government. Undoubtedly there are but

too many. But let us endeavour to trace them to their real cause. The chief is the miserable and impolitic economy introduced into all the public establishments of this country, in order to realize a surplus revenue for the home Government. Every department is on too limited a scale for the duties it is expected to fulfil, and every officer has at least twice as much work allotted to him as he has ability to execute. How, then, will the introduction of the English language remedy these evils? Although few may possess a critical and grammatical knowledge of the language, almost every civilian in the country, under the present system, must be sufficiently acquainted with colloquial Hindostanee to understand all ordinary matters that are brought before him. Their attainments in Persian, generally speaking, are on a very inferior scale, but (with reference to the second reason advanced) the greater number are able to comprehend tolerably well the papers that are read to them. It would be undoubtedly much better that they should themselves be able to read the written proceedings; but as long as *they have not time* to give to this, and cannot pretend to do it, it matters little whether the proceedings be clothed in a language intelligible to them or not.

If the measure be carried into effect at once, it would have the result of forthwith excluding from office every native inhabitant in the middle and upper provinces. And by whom are their places to be supplied?—The Calcutta clerks and the inferior classes of East Indians and English;—all of them totally unacquainted with the forms of office and with the regulations of Government, and much more unfit for the situations than the natives at present employed. In Calcutta there are certainly some natives who are good English scholars, but these are, almost without exception, men of rank and fortune, who would not think of accepting offices affording salaries of only from ten to a hundred rupees monthly.

Those who would be found willing to take them, are of the description usually employed as clerks in the Government and merchant offices. Of those, only the inferior would be willing to leave Calcutta, as the class of men I am treating of would prefer

remaining in their own country, on a much smaller salary than they could obtain at a distance; and it is no exaggeration to assert, that of those who would accept the situation in the Upper Provinces, there would scarcely be found a single individual who could write a sentence of English grammatically. Besides, experience has shown the Bengalees to be notorious for intrigue and chicane of every description, in a degree far beyond the natives of Upper India; and so totally incompetent to manage the latter, and unfit to be placed in authority over them, that there had always existed a very proper objection to employ them out of Bengal. The English and East Indians whose services we could command, at the present low scale of remuneration, would not be likely to place justice on a better footing. Those among them to whom the salaries alone would be a sufficient inducement to take office, would be discharged soldiers and sailors, and the very lowest order of clerks; men who can copy a paper without understanding it. If a higher class of men were to be obtained, they would accept the situation with the express intention of making what they could by it. They would think, as the natives do now, that, as it was impossible to exist on their authorized allowances, it must be perfectly well understood by Government that they must have their *perquisites*; only that the style of living and habits of these people, being much more expensive, than those of the natives, they would make much greater demands to meet them. It is probable that, with such prospects of *helping themselves*, many men of this class would be willing to be employed, even at the present low salaries; for, owing to the late failures in Calcutta, and the present stagnation of mercantile affairs, numbers of people who formerly held respectable situations, with comfortable incomes, are almost destitute. It is very well to talk of honesty and morality; necessity has no law; and when men of the above description are driven by actual hunger to accept situations of which the authorized emoluments (see No. VII. of these papers, for a statement of the salaries in the Government offices) are only just sufficient to keep them from starvation, it cannot for a moment be doubtful what line of conduct they will pursue: and I am one of those who think it

yet remains to be proved, that, *under similar circumstances*, either English or East Indians would be found at all more honest and moral than the natives of India;—an opinion which the publication of a simple record of various transactions in my possession would go far to support.

But the worst effect would be, the ultimate annihilation of all medium of communication between the governors and the mass of the people. The young men who now come to India are obliged to learn Hindostanee for their own convenience, in order to communicate with their servants and dependants; because the only natives of that description who speak English, are a disreputable body, whom it is extremely imprudent to employ. But when servants of a better class are to be found speaking English, convenience, in the first instance, and afterwards a dislike to change, will induce the new-comers to employ them. I have before instanced the King's officers all over India, and the Company's officers at Madras, (with, of course, some exceptions in each case,) the majority of whom cannot understand any of the languages of the country; and I may call upon my readers to reflect whether, in the whole course of their Indian career, they ever knew an Englishman who, during the whole of his residence in India, retained about him servants speaking English, who ever learnt to speak, or even to understand, any of the country dialects. I believe this will be found one of the few rules without an exception. This would not, of course, operate upon the present race; but the next generation of functionaries would present a lamentable example of the truth of the observation. If the mass of the people find a difficulty in obtaining justice at present, what would their chance be, when the superior functionaries were debarred from all personal communication with them, and the inferior officers were (and such they must be for many years to come) such as I have described above?

What earthly reason, then, can there be for the attempt, worthy only of a horde of barbarian conquerors, to force a foreign language upon a hundred millions of native subjects? Why should we not at once adopt the only sensible course; that is, to explode the Persian, and at once carry on the business of the country in

its own language and character?—that is, the Bengalee for the province of Bengal Proper, and the Hindostanee and Nagree for the rest of the Presidency. This would, indeed, be one great step towards the attainment of a proper administration of justice. By having only one language and character to attend to, the civil functionaries would soon become proficient; the colloquial and written languages being the same, would afford mutual assistance in the acquirement of each; and those to whom the people now look for justice would be equally able to comprehend *vivâ voce* communications and written documents, and would no longer be at the mercy of inferior officers for interpretations and explanations. Some have proposed to adopt the vernacular language, written in the Roman character. The principle is equally to be decried, although the amount of evil would be much less. Why should we force a foreign character upon so large a population?—a character which does not possess the letters requisite to denote the sounds of the language, for which it would be necessary to manufacture several new ones. Why should we not adopt the character which already exists, and which is suited to the language it is intended to express? Such a plan would, doubtless, be very convenient to those who have been accustomed to write Hindostanee in Roman letters, as it would save them the trouble of learning the Nagree; and it is from these only, I imagine, that such a proposition could emanate. They quite forget to take into consideration the inconvenience to which so many millions of natives would be subject, in being obliged to learn a strange character.

It is, I am aware, a source of complaint among the English merchants and tradesmen, of the hardship of an Englishman's being subject to have his legal transactions conducted in a language he does not understand. This is one of the cases where we require a *Lion Sculptor*, and a strong illustration of one of the most remarkable features of the English character. No sooner does an Englishman set his foot in a foreign country, than he ridicules and abuses whatever customs he finds different from his own; and, if he has the power, instead of adopting those of the country to which he voluntarily goes for his own benefit,

endeavours to compel all the inhabitants to submit to his notions of what is right. What would an Englishman do in France, Germany, Russia, or any other country in which he had engaged in mercantile affairs? He might as well complain of the hardship of being obliged to transact his business in the languages of those countries. It is the same in India. The number of English merchants and tradesmen (and there are no others) all over the country, out of Calcutta, amounts to a few hundreds. Who obliged them to come here? What brought them here?—The hope of realizing a fortune, or at least of being better off than they were at home. Yet some of these men actually have the effrontery to propose, that, to suit their own convenience, the rights and interests of a hundred millions of native inhabitants, who are, against their will, subject to a handful of English conquerors, should be completely set at nought! We have enough to answer for already, in our treatment of the people of India: God forbid that this further act of oppression should be laid to our charge.

The misfortune is, that those of the above class (aided by a few of those whose zeal for “the march of intellect” outweighs their knowledge and discretion) who advocate this measure, have the means of making themselves heard, while the poor natives have no such resource. On the other hand, those who are against it, treat the subject with neglect, from an idea that such a proceeding never could have any probability of being carried into effect. It is only the other day that I heard a civilian of rank observe, “that he considered the project so unjust and impracticable, that Government could never dream of attempting to put it into execution; consequently, he never even read any of the publications which touched upon it.” But this will not do in the present day. A great jealousy of everything connected with the Indian administration exists in the home Government, and a tendency to adopt measures of policy relative to India, without consulting those at the head of its affairs. If these repeated statements, of the expediency of introducing the English language, be sent home, without any opinions on the other side of the question, it is not improbable that an order may, ere long, be issued to this effect.

It is hoped that Government will put an end to this question, and that it will take a decided line, without any half-measures. In making this observation, I allude to an extremely improper practice which at present prevails in all our courts. An Englishman has a cause against a native, and is himself either necessarily or voluntarily in court. If he is to be examined, the judge or magistrate conducts his examination in English, himself, and afterwards states to the native officers the subject of his deposition, which is taken down in Persian. But whether the Englishman is to be regularly examined or not, he invariably addresses numerous observations, in English, to the judge, who almost always replies to them, and thus a sort of conversation is kept up, unintelligible to all others present. How is the native to know what passes between these two? The consequence is extremely injurious to the reputation both of our courts and functionaries, for there is an undoubted opinion among the people at large that, in all such cases, they do not receive fair play. It should be declared that the vernacular language of the country should be that of the courts, and that the presiding officer should speak no other: that if an Englishman understood that language sufficiently, he should be examined in it; or if not, he should be heard by an interpreter, which would create no delay or expense, the English writer of the court being always at hand. The proceeding would be on the principle adopted by the courts of justice in England, and indeed in every other civilized country; and it would destroy all grounds of complaint on the score of *partiality*, for everything would be open. English merchants, tradesmen, and other settlers, who come to India for their own advantage, must, if they have any regard for the prosperity of their affairs, take the trouble to acquire the languages of the country; or, if indolence or incapacity prevent their doing so, it is utterly repugnant to all notions of justice that their private interest should be consulted in preference to that of a hundred millions of native inhabitants, and a foreign language forced upon them solely for its gratification. Should the time ever arrive, when, from the great influx of English settlers, the majority of the population are capable of understanding our

language, and *wish* for the change, *then*, and *not till then*, will Government be justified in introducing it.

I would beg not to be misunderstood on one point of the subject under discussion. I am aware that a considerable number of the natives in and about Calcutta have been, for years, studying English as a means of improving themselves, and that the English language is becoming fashionable among the rising generation. I rejoice at this, and would wish, by every means, to cherish the growing taste for our literature which seems to prevail among the people of India. Indeed, I hope to see the day when it will supplant that of the Sanscrit, Arabic, and Persian. But it should be remembered, that those who at present devote their time to this pursuit, are men of rank, wealth, and leisure, with a few highly-gifted private individuals. English is to them what the Greek and Roman classics, and the French and other European languages, are to the English. These are an indispensable part of the education of every man in England, in the rank of a gentleman; and, with regard to French, all those who have mercantile connexions with the Continent,—all those attached to the *corps diplomatique*,—and, in short, all whose interest or business are in any way associated with foreigners, find it necessary to make themselves acquainted with it. Even the waiters at the hotels, at those seaport towns, Brighton, Dover, &c., which have frequent communication with France, and many of those about the piers, custom-house, &c., are found tolerably familiar with it; so that the proportion of the population of England who understand French, is infinitely greater than that of the natives of India who are conversant with English. Yet no efforts of the English government, supposing they were to have the madness to propose such a measure, would ever succeed in introducing the French as the general language of England. Equally futile would be the endeavour to substitute, for the vernacular language of India, that of her English conquerors, and the only result of such an attempt will be ultimately to increase, in a tenfold degree, the oppression and injustice of which she has already been the victim.

No. XX.

ON THE FORMATION OF A CODE OF LAWS.

THIS subject has already been agitated; particularly by one eloquent writer, who has advanced reasons and arguments sufficient to have induced those in power to bestow attention upon it. But as it seems hitherto unfortunately to have failed of effect, it will not, I trust, be deemed superfluous to bring the question again into notice.

It is needless to dilate upon the general principle of the expediency of having the laws of any country reduced to the most concise and simple form possible, consistent with clearness and accuracy. The present object is, to endeavour to rouse the Government to a sense of the importance of the measure, and to induce it to compile the heterogeneous mass of legislation which at present exists, into something like a tangible and intelligible form.

By some, objections are made, on the grounds of the constant changes, rescissions, alterations, and modifications which are from time to time necessary; and it is proposed to wait until further experience shall enable us to compile a code of laws which shall comprise most points which are likely to arise. Under such circumstances, we may wait till Doomsday. Were eight or ten of the most able men in the country to be employed for as many years in framing a set of regulations, they would not probably be able to devise one which should embrace every point: besides, even if their production did provide for every case then in existence, subsequent changes would ere long be found necessary. In this world few things remain stationary; times, men, and manners, fluctuate with the course of revolving years; and laws and regulations must be adopted to meet their exigencies. It is in this as in most other cases, perfection is unattainable to human works; and our wisest course will be only to aim at improvement, to make the best arrangement in our power; to alter the laws from time to time, as experience shows to be expedient; and when the alterations and additions shall have become of consider-

able magnitude, to embody the whole in a new code, and abolish the old one.

By this means the laws will be comprised within such moderate limits, that every individual in the country will, without much difficulty, be able to make himself acquainted with them; an object greatly to be desired, as tending to the good government of every country. In England, the voluminousness of the laws has long been a source of complaint, and if so there, what must it be in India,—when the circumstances are so different in regard to those who are to execute them? Let us consider what these are; and we shall then perceive the urgent necessity of doing what is proposed. In England, a young man who makes choice of the profession of the law, begins by what may be called *apprenticeship* of several years, during which his whole time is devoted to that particular study. After he has “*served his time*,” and become either a barrister or an attorney, for a considerable period he is not likely to have much business; and has ample leisure to perfect his knowledge. In the mean time, he is in constant attendance on the different courts, and has full opportunity to note precedents, and become familiar with all the forms observed. As his knowledge and reputation increase, so does his practice; and when, after many years, he is promoted to the situation of Judge, he takes his seat on the bench, perfectly conversant with all the forms of court and points of law which are likely to arise; and is enabled to devote his whole attention to the merits of each case brought before him. How different the situation and career of the Judges and other members of the East India Company's service in India! Transplanted from Hanleybury College to that of Calcutta, a young man is required to give his whole attention to the indispensable acquisition of a competent knowledge of the language of the country (by way of making his task more difficult, his attention is divided between two, or even three, whereas by a proper arrangement, one would be sufficient; see Nos. V. and XIX. of this series); as soon as he has passed his examination, he is sent as assistant to a collector and magistrate, where he is hard at work all day, deciding petty police causes, breaches of the revenue law, and disputes between the head-distiller and his sub-

ordinates relative to the quantity of liquor served out by the former to the latter (technically known by the name of "*Abkarree cases*,") so that he has barely time to make himself acquainted with the regulations bearing on these particular points. After three or four years thus spent, he is promoted to the office of "head-assistant ;" in which situation, his powers are greater ; and he is occasionally intrusted with the measurement of lands, (or rather to affix his signature to papers which his native assistants have prepared,) and to assess the revenue which they are to pay ; he also decides summary suits for non-payment, or over-exaction of rent. In due course of time he is promoted to be deputy, and finally full collector and magistrate ; in which appointments the nature of his duties are much the same as above-mentioned, except that the cases are of a more serious nature. In the whole of these situations his time is so fully occupied by the "current duties" of his office, which are infinitely more than it is possible he can fulfil efficiently, (a fact which cannot be too often repeated,) that it is almost impossible he can be well acquainted even with the Police and Revenue Regulations, which of themselves fill several volumes.

The next step is that of Civil and Session Judge or Commissioner, for each of which there exists a fresh set of laws, occupying several volumes, and finally that of Judge of the Sudder Dewanee and Nizamut Adalat, (*i. e.* Judge of Appeal over the District Judges) or Member of the Board of Revenue : for the guidance of each of which offices a fresh set of laws are to be learnt. In these latter situations the duties are not so heavy : a man may, by hard work, fairly do his duty, but will certainly not have any leisure time upon his hands.

Does not all this speak for itself, and inculcate the urgent necessity of a constant and speedy revision of the laws, so that they may be as concise, and as easy of reference, as possible ? The misfortune is, that these Regulations (amounting in the Government edition to about twenty tolerably thick folio volumes) do not furnish much guidance for the main points at issue which are likely to come before the different officers ; but relate chiefly to points of form for the respective courts. The famous Chancel-

lor Oxenstiern observed, "You see with how little wisdom the kingdoms of the world are governed," and people are not in general aware how very moderate a portion of legal knowledge is sufficient for a Judge. Who are our Judges in England? The tradesmen, farmers, and yeomen of the country, who form our *Juries*. It is rarely that a person in what is called "the rank of a gentleman" is found upon the petty Jury; yet these *petty Juries* are in reality *our Judges*. It is true a learned Judge presides, takes notes, and sums up, but the respective counsel conduct the cause, and in a vast number of cases (perhaps the majority), a clerk to take down the evidence would answer every purpose. It is only where some legal or technical point arises, that any directions or even observations from the Judge are requisite; and it seems to me to be a *satire* on the laws of any country that a Judge should be required to be "a man of great *legal* acquirements." It is in plain English this, that the laws are so voluminous, and so difficult to be understood, that a whole life of unremitted labour is necessary to surmount the obstacles. The laws ought to be so framed, that with moderate industry they might be known and understood by the community, which by frequent revision and consolidation might be accomplished. The real points on which decision is required, are generally such, that common sense and common honesty, added to a tolerable knowledge of *the customs of the country*, will form the best qualification to give judgment.

In India this is particularly the case. About one-half of the cases which our courts are called upon to decide, are simple demands for debt, foreclosing of mortgages, release from mortgages, and others, which but for the encouragement which the present delay connected with them holds out to dishonesty, would never have been brought into a court of justice, and can be decided in a very short time. (On this point I shall enlarge at a future opportunity.) Others, again, involving intricate accounts and counter-dealings between merchants, or succession to, inheritance of, or other claims to, real property, are cases of very considerable difficulty: but in the whole of our voluminous Regulations, very little is to be found to guide a judgment in such claims.

The customs of the country, and the Hindoo or Moosulman laws, must form the rules of guidance ; and it is on his knowledge of these that a Judge must rely to give a just decision.

It is to be hoped that Government will, ere long, be roused to a sense of the weight of the question here proposed, and adopt some plans for removing it. Many books under the several heads of Analysis, Synopsis, Index, &c., have been already published by different individuals, some of which are deserving of the highest praise. Still the grand desideratum of a simple code, published by the authority of Government, is wanting. The magnitude of the undertaking has had some effect in preventing the attempt, but as it must infallibly be made sooner or later, the sooner a beginning is made the better. The work will undoubtedly be one of considerable labour ; but still by no means so Herculean a task as is generally supposed. What is required is, not to enact a new code of laws, but simply, that out of the mass of miscellaneous legislation, all the enactments bearing on each particular point, as they stand at present, whether in the Regulations, or the Circular Orders of the Sudder Dewanee or Nizamut Adalut,* or in the "Construction Book," should be brought under one head : of those which have been rescinded or altered, the former should be omitted altogether, and the latter inserted in their revised form : at present, in some particular points, we have to turn to twenty different Regulations. There cannot be a better model than the "Abstract of the Civil Regulations," compiled by the late Mr. Augustus Prinsep, of the Civil Service. Every point connected with the practice of the Civil Court, and the duties of the Judge, is there brought into view ; the division into chapters and sections is so convenient, that, assisted by the copious index, a perfect novice might in a few months make himself master of the rules for the guidance of the Civil Courts on every point. It affords a splendid example of the industry and perseverance of a young man, and will reflect lasting credit on his name. And the whole is contained in a thin quarto ! On this head, Government need not go further than this work.

* Chief Civil and Chief Criminal Court. The Judges of both are, however the same individuals.

According to the same mode should the laws be consolidated regarding the Police and Revenue departments, of which each must be divided into its different heads. In the former,—Duties of a Magistrate—Crimes cognizable by, with extent of punishment he is capable of awarding—Cases to be committed to the Court of Circuit, or Sessions Judge—Miscellaneous cases cognizable by—Duties of Assistants—Powers of ditto—of those with special powers—Duties of Police-officers, Watchmen—Extent to which the people are liable to be called on to assist the Police—would form the chief heads. Duties of Commissioners of Circuit (as Superintendents of Police,)—then would come Duties of Sessions Judges—Cases cognizable by, with amount of punishment to be awarded, &c., and finally the duties of the Nizamut Adalut. In the same mode should the Revenue and Customs department be arranged; and if a little care were taken in rendering the Regulations less *wordy* than they are at present, and in avoiding repetitions and contradictions, it is probable, that about three moderate-sized quarto volumes would comprise the whole that at present exist. Dale's Index,† the work of another individual at his leisure hours, will greatly facilitate the reference to every enactment relating to each different head. It will doubtless be a considerable time before the whole can be completed, but let the work be taken in hand, any one department begun, and all that relates to that be consolidated; and either at the beginning or the end, instead of taking up several pages with a list of all the Regulations, sections, and clauses rescinded, let it be simply stated that “all existing Regulations on this particular head are hereby rescinded.”

I had intended mentioning several glaring mistakes which have been committed in some of the enactments, but it would take up a considerable space; besides they will not escape the observation of those who may be employed in the revision of the Regulations. One instance however shall be given in illustration. By sec. 2, Reg. IV. 1831, sec. 11. Reg. V. 1830, is rescinded, yet there are but five sections altogether in Reg. V. 1830. And it is evidently a complete mistake, as the one Regulation relates to indigo-plants in Bengal, the other to duties on liquor in Prince of Wales's Island. Again, in many instances, certain crimes, if proved, are declared liable to certain punishments. After the words “*if*

proved," the different modes of what is to be considered proof are enumerated. It is to be naturally supposed that the punishment is not to be inflicted unless the crime be proved: and as to the latter point, a single enactment of what should be considered sufficient proof, once for all, would be quite sufficient. The Regulations are needlessly multiplied, where a simple order from Government would be sufficient. We have numerous Regulations respecting the annexation or separation of certain districts, to certain divisions of Courts of Circuit; or Commissioners of Revenue and Circuit. The question, whether a certain district situated mid-way between the head-quarters of two different Commissioners of Division should be annexed to the one or the other, is of as little importance to the public at large, or to the general administration of the country, as whether a particular street in the town of Calcutta, situated midway between the Northern and Southern Police Office, should be under the control of the former or the latter. In all such cases, a simple Order in Council would be quite sufficient, and would tend to diminish the bulk of the general regulations.

I would wish to bring another point into notice. In many Regulations it is declared, that "it shall be competent to the Governor-General in Council to make" certain "arrangements." The arrangements might just as well be made without the Regulation, since the same authority possesses the power to enact the Regulation and make the arrangement. This seems to be copied from the English mode of proceeding, where an Act of Parliament is occasionally passed to enable the "King in Council" to issue certain orders under certain circumstances. The difference in the two cases seems to have been overlooked. Would it not be a waste of time and legislation to pass an Act of Parliament to enable the King, "*with the consent of both Houses of Parliament*," to issue certain orders, when they appeared necessary? As the necessity must and would be canvassed in the second instance in both Houses of Parliament, before consent was given, the first act would be perfectly superfluous. The number of Circular Orders of the Sudder Dewanee and Nizamut Adalat* might also be greatly abridged. A case of neglect or disregard

* Chief Civil and Criminal Court.

of any Regulation or Order on the part of any one Judge or Commissioner is as constantly followed by a circular order to all Judges or Commissioners. Surely, it would be better to reprimand the person in fault. There can be little use in loading every officer with an additional circular order, to say nothing of the expense of publishing so many. In addition I would suggest, that all *local* acts should be kept separate from the general Regulations, which would still further diminish their bulk. How very needless it is to burden the volume of laws for the internal Indian Provinces with a Regulation respecting the customs or duties on goods in Prince of Wales's Island !

Finally, I would call attention to a point of neglect on the part of almost every civil functionary in the country. In hardly any office-copy of the Regulations are the rescissions, modifications, &c., noted : yet it would be very little trouble, as every successive Regulation was received, to look over it, and in the margin of those affected by the new enactment to note down what alterations had taken place, and by what Regulation they were caused. It is to be hoped that an order to this effect will be issued, and that the different Commissioners, in their circuits, should be directed to examine whether it had been attended to.

The different points touched upon in this paper will, I hope, be found worthy the consideration of Government. If the propositions should be carried into effect, it would be an incalculable benefit, both to their own functionaries, and to the community at large.

July 1st, 1833.

No. XXI.

RETROSPECTIVE AND PROSPECTIVE.

A POINT is now reached in discussing the affairs of India, at which it seems expedient to pause, and take a view of the path we have trodden, and that which lies before us. What strikes us most forcibly in this survey is, the great change which has been wrought within the last few years in the feelings and opinions

of the English on the subject. A very short period has elapsed since it was the calm, quiet, comfortable, and settled opinion of most of those connected with this country, that the British Indian administration was the best that could be devised for the happiness and prosperity of the people; that they were fully sensible of the blessings it afforded them, and rejoiced at their emancipation from the tyranny and rapacity of their former native rulers. The few, the very few, who even then had looked a little beyond the surface, and, from their own experience, had learnt somewhat of the real state of affairs, did not venture to express sentiments which should militate against the generally-received opinion. The slightest hint, indeed, to that effect would have been sufficient to rouse against them the society in which they moved, and the letters and publications which have, during the last three or four years, appeared in public prints, had they been issued ten years since, would have inevitably subjected their authors to transmission without trial.

Happily, a more liberal and enlightened view has been taken by our rulers of the present day; and the fruits of their policy have been as beneficial as we had every reason to expect. Men have been allowed to speak openly and boldly; light has succeeded to darkness, and the rays of the sun have penetrated and partly dissipated the mist in which we were enveloped, so as to discover the hollowness and insecurity of the ground upon which we stand. Some are yet too blind to perceive their danger, or willing to deceive themselves as to its existence. They deprecate the new policy, and prophesy the downfall of our empire, and endeavour to attribute the representations which have been made of the abuses of Government and the miseries of the country, to what they are pleased to call the democratic or radical spirit of the public journals*. This, however, will hardly bear the test

* I am no radical, but I am equally opposed to those in power who pertinaciously refuse to believe that anything is wrong, and resist all reform. This is the conduct that causes a radical or democratic spirit to spring up; and all history will prove that the downfall of almost every nation has been caused by the refusal of its rulers to redress real grievances.

The late speeches of Sir J. Malcolm, and others, in the Court of Proprietors, furnish additional proof of the present critical state of India. The Government servants should begin to retrench their expenses still further, and save

of examination. The publications which have lately appeared, have not been the *cause* of the present perilous state of India. They have only brought it to notice, and, in so doing, deserve the thanks of all those who wish well to the country, or who desire the stability of the British empire therein. There is no hope of any amendment, unless we are first sensible that we are wrong; and I rejoice to find, that, with respect to our Indian administration, this first great step has been gained. The statements that have been lately made, have given new light to many who before had no means of attaining it, and brought forth many secrets which would otherwise have remained in their former concealment. For the representations given have not been mere assertions and declamations; facts have been produced which no one has yet disproved, and arguments advanced which no one has yet confuted; and the result has proved, beyond all question, the inefficiency of the government which has been established in India to promote the happiness or secure the interests of the people. The principles on which our Indian government has been founded, and the treatment which the people have received from us, both nationally and individually, have already been described; to these I beg to refer my readers.

Has the truth of these statements been, or *can it be*, denied? And what is the result at this very moment? That "the baseless fabric" of our Government is already tottering to its ruin,—that the ground beneath it is sinking,—and that the slightest touch, even from an invisible and powerless hand, would be sufficient to overthrow it, never to rise again. It will probably be asked, How is it possible, if this be true, that we should so long have been blind to our situation in this country? The solution of the question is not difficult. For years the English have lived in complete seclusion from the mass of the people; there has been no middle class from whom they might have learnt the effects of our system; and almost their only communication has been with a few individuals of the natives, who, for their own benefit, are interested in preserving that mode of rule by which

what they can. Should the ministers' | loss of the retiring pension will, in all
plan be carried, reduction of pay will | probability, very soon follow.
be the immediate consequence, and |

they fatten on the vitals of their countrymen. Our supreme governors could learn little or nothing, but what they were told by the officials by whom they were surrounded; and all were interested for their own credit and fortunes, in representing matters in the most favourable light. Take a few extracts from a letter from Lord Moira to the secret committee, dated January 13, 1816:—

Par. 79. “A notion has, I believe, been entertained by many, the representation of which may, perhaps, have reached your honourable board, that the system of our revenue administration in the Upper Provinces has induced all the evils of insecurity to landed property, so that in its operation numbers have been ousted from their rights, and left to want and misery.”

Par. 80. “I have been careful to make very particular inquiries into this subject, and am happy to be able to assure your honourable board that any opinions of this nature which have been circulated, owe their origin to the want of sufficient information, and to an inaccuracy of deduction from appearances. Our system has certainly some very serious defects, but these lie as much in the judicial as in the revenue branch of its administration; and, except the partial operation of sales of land for arrears of revenue, and of private purchases by the native officers of Government, I cannot believe that any revolution in the property of the soil has at all been one of its effects.”

Also Par. 101. “I have taken especial care to ascertain the mode in which all cases of this nature are scrutinized by each authority; and I feel satisfied that it would be impossible in any way to secure a more fair or full inquiry than what they now actually receive on all occasions. Though, therefore, in the first instance, under the contract tehsildaree* system, there does not appear to have existed any adequate security to landed property against the abuses of that system, it must be obvious that the present administration of the board of commissioners not only is no way chargeable with these abuses, but has the high merit of having remedied them.”

* This was a plan adopted for some time after our acquisition of the Western Provinces; it was virtually farming out the districts in subdivisions to the subordinate revenue-officers.

These are the sort of statements which have been so constantly sent home, while a contrary view of the subject, if entertained, was carefully kept out of sight through fear of giving offence, and subsequent injury accruing to individuals in their credit or fortune. Nevertheless, even the official Reports, had they been properly attended to, would have afforded sufficient ground for a suspicion that all was not as well as was represented. The Appendix to the Fifth Report affords abundance of materials for deep reflection; and the documents that were accessible sixteen years ago, were sufficient to induce Mill to quote the following observations:—"India, in the hands of a civilized people, has been governed *not quite* so badly, say ministers; *quite* as badly, say other persons, as when it was under the despotism of barbarians;" and, notwithstanding Lord Moira's flourishing statement above quoted, we find, in the Fifth Report, the land advertised for sale, in a single year, was *nearly a tenth of the whole of Bengal, Behar, and Orissa*, provinces of a much larger extent than the whole of the British Isles! Had his statements been correct, where would have been the necessity for the Special Commission? Further, as an amusing contrast, let my readers look at paragraphs 108 to 113 of the very same letter. We have lately seen the opinions of Sir John Malcolm, Mr. Mackenzie, and others, which fully corroborate all that has been said to the disparagement of the British Indian government; and I am convinced that the more the matter is impartially sifted, the greater proof will be afforded of mal-administration. It may be said that Government was always ready to listen to any representations of the working of our system. I am aware that several ordinances have been published to this effect, either in the shape of a regulation or a circular order. These are something akin to the law in China, which permits the Chinese to express their opinions freely on public affairs; but which has generally been considered by those who have observed the reluctance of the people to come forward, to be a severe satire on their actual condition. It is much the same with the Government functionaries in India. Gentle hints, if very cautiously worded, of any *petty evil*, may, perhaps, have

been well received. They proved to the world at large the disposition of Government to hear and remedy abuses; but woe be to the man who should have ventured to say anything too broadly, especially if he should allude to the two great causes of the progressive impoverishment and deterioration of the country, under the *screw-press* revenue system, and the total inadequacy of the existing establishments to afford justice and protection to the people at large. This *was* the system; but "*tempora mutantur.*"

The tone of society, too, in speaking of the natives of India, has undergone considerable change within the last year. They are not now held quite in such low estimation as was formerly the case, and we have begun to discover that, although they are black or brown, it is, nevertheless, possible that they may possess some good qualities. I flatter myself with the idea that these papers have had some influence in producing the more kindly feeling among the English towards them which is now apparent. Their perusal has, I trust, caused many, as Malcolm observes, "to increase their knowledge, not only of the natives, but of themselves," and the consequence has been, as in his case, that they find the imaginary difference between them wonderfully lessened. These are results which should cause every real friend to India and humanity to rejoice. As I said before, in this and in other points, the first great step towards improvement has been gained, but much yet remains to be done. And this leads us to the second subject for consideration—the future prospects of India.

Great were the hopes which were entertained from the liberal and enlightened policy which has been all along *professed* by the present ministers of England. The attention of all connected with India has long been directed with intense anxiety to the future plans of Government which are anticipated. The veil is at length withdrawn, and what appears? A miserable, temporizing, popularity-seeking plan, to mystify the people of England, and to help to secure their own places, by the sacrifice and the ruin of India. I do not deny ministers the justice of having brought forward many good measures; but there can be little

doubt of the motives which have influenced their decision on the affairs of this country.

The China trade is to be thrown open. The dividends of East India stock are to be charged on the territorial revenue; and Europeans are to have free access to the presidencies, and to be allowed to proceed into certain parts of the interior, without a license from Government.

These are the chief, indeed, the only, features of any importance, while no improvement of any kind has been attempted. The China trade is to be opened. Good. But will that benefit India? No! But it will gain a little popularity in England, by cheapening tea for the English, the mass of whom know nothing, and care nothing, about the suffering millions of Hindostan. Europeans are to have free access to the presidencies, but are only to enjoy partial liberty to proceed into the interior, without a license from the local Government. Will this benefit India? The presidencies are already overstocked with Europeans. It is in the provinces that men of skill and capital are required, to revive drooping trade and agriculture, and whose permanent settlement will counteract that continual drain of capital which is destroying and feeding on the energies of the country. Who will expend any capital, while, though transportation be abolished, a man is liable to have his concerns ruined, and to be himself sent down some hundred miles to the presidency at the will of the governor? The last point remains to be considered.

The dividends of East India stock are to be charged on the territorial revenue of India!

The dividends amount to 630,000/. These, with the expenses of the Court of Directors, Board of Control, and their respective establishments, pensions, and other claims, taking into consideration the low rate of exchange, will require a sum of nearly a million sterling to be annually transmitted from India. Can India supply this demand? During the last five years of peace, economy and retrenchment in the Government, and taxation of the people, have been pushed to the extreme point, and about one million sterling has, in this period, been collected in Bengal.

From the necessity which, it appears, has lately existed, of sending treasure hence to Madras, it may be inferred that no surplus exists there. Respecting Bombay, I cannot speak so plainly; but there is reason to believe that not much may be expected from that quarter. Whence, then, can such a sum be drawn? It is utterly impossible that any such surplus can be realized, and the attempt to do so will seal the ruin of India; for it can only be done by further retrenchments and higher taxation. Ministers *must* be aware of this. Mr. Charles Grant *is not, cannot*, be ignorant of it. The remedy must be forced upon them by an appeal to the honest feelings and generous sympathies of the people of England—if, indeed, *it is possible* to rouse them on the subject of *India*, and her interests; and from the enthusiasm now excited at home for the *religious* state of India (a feeling which, though I hail with delight, I would fain see guarded with the greatest circumspection and the soundest judgment), we may hope that if a like powerful appeal were made for her *political* improvement, there would not be wanting many a manly breast to give it echo, and many an eloquent tongue to plead her cause. But the first voice must be raised on her own shores. Will no one speak? Now, or never, must it be done, for ere long it will be too late. I would urge upon our rulers to consider the awful state of India at this present moment. Let them not trust to official reports and returns, but seek their knowledge from those who mix with the people. The cup of misery for the inhabitants of almost all the upper provinces is now nearly full. In some of the district subdivisions, the unrealized balance of revenue is *one-fourth* of the whole amount. Groves of trees, the pride and ornament of the villages for ages, are being cut down; property of every description, even to the agricultural cattle and implements, has already been sold; estates without number are attached for sale, while no purchasers are to be found; land is everywhere thrown out of cultivation; and the people are now thinking of selling their children to save them from starvation, and to satisfy the undiminished demands of their rapacious task-masters, while crime, the natural result of such a state of things, is everywhere increasing tenfold. This

is a picture which inquiry will prove not to be exaggerated. God grant that those who have the power, may check the evils before it be too late. These warnings may be disregarded; but those who neglect them will, ere long, have cause to rue it. The burdens of the people are already insupportable. They will rise *en masse* against those who attempt to impose any additional weight. Estates and farms are thrown up in hundreds; the farmers and respectable landholders come in bodies to appeal to the commissioner of their district, whose only reply is, that "he has represented their grievances, but has received no instructions from the Government that can afford them relief" One would think that self-interest and self-preservation alone should rouse the *servants* of Government on the subject; for there can be little doubt that, in the event of any commotion, they would be the *first victims* to the excited passion of an injured people. And while this reflection should awaken Government to some consideration for the lives and fortunes of its servants, it would seem to call upon the latter for additional zeal in doing their duty, and making friends of *those*, while it is yet time, who, if not *friends*, will be their bitterest *enemies*.

Lord William Bentinck has hitherto stood high in public estimation, for independence and firmness of mind. I do not approve of all his measures, or of the mode in which some of them have been effected. But I do him the justice to say, that he has laid the foundation of some solid benefit to India, and would have done much more, had he acted up to his professions. Let him now summon up moral courage, and boldly tell the British ministers what a wretched policy they are pursuing. Let him put a stop to the extortions which are now practised; and when he shall leave this country, he may return home with the consolation that he has saved the people of Upper India from ruin, and the British Indian empire from being shaken to its foundation, if not from absolute overthrow. When on his death-bed, this reflection will afford him more satisfaction than the thoughts of having amassed a few extra thousands in the coffers of the East India Company.

July 4, 1833.

No. XXII.

ON THE SYSTEM FOR THE ADMINISTRATION OF JUSTICE
IN BRITISH INDIA.

THE observations in the present paper will, perhaps, be considered by many to militate against a remark I once quoted from Mill, that "the Court of Directors and the local Government deserved the praise of good intentions," to which I added a proviso (which he inadvertently omitted) "that the good intentions should not interfere with the interest, direct or indirect, of themselves, their friends, and constituents. It is upon this principle that the Courts of Justice, Revenue, and Police, have been arranged in India. Provided the measures they adopted did not affect their own profit, Government were very willing to do all in their power to enable the people to obtain justice, relating to transactions between themselves, and against all others. The plan devised was, to abolish all the old Courts of Judicature, these being pronounced corrupt and inefficient; and, in their stead, to establish courts in which intelligent Englishmen should preside, whose integrity should be secured by a salary sufficiently liberal to induce men of education and high qualifications to leave their native land and enter the service; and which should, at the same time, place them above temptation."

Such was Lord Cornwallis's plan: in some respects it promised well; and was, indeed, worthy of an enlightened statesman; but it was radically wrong in one respect, that of excluding all natives of respectability from any share in the government of their own country. It is now generally acknowledged to have been a complete failure. The causes of this I propose to treat of in this paper; and it is worthy of remark, how very little real attention and observation could have been bestowed on the subject, when so much difference of opinion exists on the true causes, which would appear sufficiently obvious to any one who will give them a little examination.

From the very commencement, there was enough to show the

total inconsistency and inefficiency of these courts. Delay and expense were universally complained of, which, in many instances, were so great as virtually to amount to a denial of justice. In the reports sent home, it was necessary to assign some reason for this, and it is quite amusing to see the ingenuity of our different governors and councils in discovering all sorts of explanations, except the right one: "litigiousness of the natives"—"recruery of the subordinate officers"—"the frequency of perjury"—"the difficulty under which the foreign judge laboured of estimating the credit due to native testimony,"—and many others of the same nature, all tending to throw the blame upon the poor natives, and exculpate the English judges and the Government, were the causes assigned. The remedies devised were all in the same spirit. The litigiousness of the people was to be checked by punishing, indiscriminately, all applicants for justice, by a *fine* under the name of a *fee**, and throwing difficulties in their way. Severe penalties were enacted against perjury, &c., while no correspondent measures were adopted to facilitate the detection of crime. These and others of the same stamp were enacted, the only effect of which was, to give every encouragement to the dishonest, and every discouragement to those who were prosecuting a just claim or complaint. It was observed, that the delay in deciding causes, in executing the decrees, and in the general transaction of business, was extreme. On this, new forms were devised, additional monthly returns ordered of the business performed, and occasionally special reports called for as to the reason of the delay. To the great surprise of the Government, all this only tended to render "confusion worse confounded," and to increase the procrastination; (for the time requisite in making out the extra returns and

* See the remarks in the fifth report on Regulation 38, of 1795 (the passage is too long to quote) Take the following observation from Mill. "Nothing is more easy than to lessen the business of the courts of law, to diminish it to any proposed extent, to produce its annihilation. What are the means? The most obvious in the world,—denial of justice. Decree that no person

whatsoever who is less than six feet high shall be admitted to sue in a court of justice, and you will reduce the business to a very manageable quantity. Decree that no man who is less than eight, and you reduce it to nothing. A man's stature is surely as good a test to judge by, whether he has received an injury, as his purse."

reports, threw the current business so much further behind-hand ;) until, at length, the system for the administration of justice resembled a machine, of which the main-spring was too weak to perform its functions; while the mechanic, finding it inadequate for his purpose, and unable to discover where the defect lay, continued to load it with additional checks and fly-wheels, in hopes of making it work better, so that it was in great danger of stopping altogether.

I will now give a short delineation of the mode of transacting business in the office of a judge and magistrate*, under the system which is now undergoing revision, in a district in which the public functionary really wished and endeavoured to give satisfaction to the people. The judge-magistrate rose at day-break, to take a ride, during which he was often obliged to proceed in a very different direction from that which his pleasure or the benefit of his health would have impelled him, to investigate some point or dispute, relative to a house or piece of ground, or a theft, (a circumstance of almost daily occurrence,) that opportunity being, at other times, taken to inspect the roads, and the convicts employed upon them, lest his neighbours should lay to his charge the fracture of their vehicles or their bones, if this portion of his duty was neglected. On his return home, he finds several police-officers, spies, and others, waiting to give intelligence of some roguery, which occupies the intermediate time before and after breakfast, till he goes to office. This he usually does about nine o'clock, or a little after. In his way thither, he is beset by all sorts of people, calling for justice; all of whom he passes by unheeded. He is not to blame for this. Were he once to stop to hear one man's story, he could not refuse to hear others; and the numbers would increase, so that his whole day would be spent upon the road, in hearing their complaints; the burden of which, after all, would be this,—that each man had been in attendance days, weeks, or even years, without being able to get his grievance redressed, or even, in many cases, *heard*. The judge-magistrate feels and knows that this is no exagge-

* The offices of district civil judge and police magistrate were, with few exceptions, held by the same individual.

ration; but he is also well aware that, according to the size of his district, from *one-half* to even *three-fourths* of the applicants have no chance of obtaining redress, even for *real grievances*; so he drives on the faster, to escape the annoyance. On reaching his office, he finds it as crowded as the court of justice would be during the assizes of a large English county, and he takes his seat. The police and miscellaneous criminal department has always been supposed to be of more importance than the civil; he applies himself, therefore, immediately to that. The first thing is to hear the reports of the different police-officers, and dictate the various orders required. The next is to hear the different cases of felony, in which the perpetrators have been apprehended, and sent in, with the witnesses and stolen property, or any other mode of proof there may be, by the different police-officers. These are seldom heard the day they arrive, often, if there be a press of business, not for a week, or even a fortnight afterwards; and it rarely happens that the parties concerned are examined personally by the magistrate. The police reports, prosecutors, prisoners, and witnesses, are handed over to different natives attached to the office, who sit down, in an adjoining room, question them in Hindostance, and take their depositions in Persian, after which the case is considered *prepared*, and it will be heard, either the next day, or some day after, when the judge-magistrate is at leisure: during all which time the prosecutors and witnesses are obliged to remain in attendance, almost always at their own expense, the poorer classes being often actually obliged to *beg*, to obtain food to support them. The prisoners are, in this respect, better off; as, during their confinement, they receive an allowance. Meanwhile, the judge-magistrate is occupied in the following manner; part of his time is devoted to hearing cases which have been *prepared*, either the day before, or several days previous; the prisoners are placed before him; the prosecutor and witnesses are successively pushed or dragged into the room; the Koran*, or bottle of dirty water

* The Koran is the Bible of the Muhammedans, on which they are sworn. Most of the Hindoos are sworn on the Ganges' water: but some tribes have other kinds of oaths, and do not consider one by the Ganges' water binding.

(supposed to be that of the Ganges), is placed in their hands; and the depositions of the whole gabbled over as fast as possible in *Persian*, at the end of which, the judge-magistrate either directs further evidence on any particular point to be summoned, or calls out, "Commit for trial;" or, if he thinks the case completed, and it be within his cognizance, sentences the punishment to be awarded. The prosecutor and witnesses are then driven out of court by the *chuprassees**, who, in the hurry of the moment, often forget to tell them that their attendance is no longer required, and the prisoners are carried away to receive their punishment; the *nazir*† making known to them their sentence as they go out. Sometimes the crowd is so great, that a witness is not brought up to his place, until just as the concluding words of his evidence are being read. No matter. He receives a bob on the hand from the Koran, or the bottle of water, and is pushed aside to make room for the next.

During the last few years, a slight variation has been made in the above routine. In some courts, the parties are not often now taken into a different room to give their deposition. It is done in that in which the magistrate sits; and when brought up for hearing, the officer of the court reads off the deposition in Hindostanee. There is something in the *name* of being examined in their own language before the judge-magistrate: and such is the statement made to Government; but I must let my readers a little behind the scenes. The writers who take the depositions, do so in the remotest corners of the room, and are desired to speak in as low a tone as possible, that they may not interrupt the judge-magistrate, who is attending to other business; and when the case is brought up to be heard, the officer of the court certainly uses *Hindostanee words*, as he reads on, but he *as certainly* does not *speak* Hindostanee, (it would be almost impossible for him, in the hurry, to translate properly off hand,) but scrambles through it, using the Persian idiom throughout, and merely substituting Hindostanee for Persian

* The chuprassee is a sort of runner or constable attached to the courts, to call people, preserve order, &c.

† The nazir is a sort of sheriff of the court.

words. The judge-magistrate, from long practice, contrives, after a fashion, to understand what he hears, or to gain a general idea of the subject; but as for the common people, what with the noise, hurry, confusion, and rapidity with which the whole passes, they have no more conception of what is going on, than if the business were in Persian, as formerly. The same mode of proceeding takes place in what are called the "miscellaneous cases," that is, those founded on complaints not sent in by the police-officers, but preferred by one of the parties.

But even to the business, as above described, the judge-magistrate cannot give undivided attention. Hardly five minutes pass without interruption. The sheriff of the civil courts begs, in the right ear, for an order, on one case. The criminal sheriff whispers in the left, upon some other matter. An attorney employed in some civil cause makes his way to the right, and begs for one minute's attention, that an order may be issued which will save his unfortunate client from ruin. The judge-magistrate, perhaps, listens to what he has to say, and gives the order required, by which time, the officer, who is all this time reading the depositions relative to the case of the "prisoner at the bar," has galloped through an additional page. "Stop!" says the judge-magistrate, "I did not hear the last*." "He says so and so," rejoins the clerk;—"Very well, go on!" and away fires the officer in front, while the judge-magistrate's left ear is immediately assailed by the English writer, for instructions to answer a letter from the commissioner, finding fault with a charge in the contingent bill of a few pice, which had been given to some poor, starving, half-blind old woman who had been summoned fifty miles, or, perhaps, even a hundred, as a witness, (such is the style of economy of the present day,) or his attention is called to the back of a criminal who had just undergone the punishment of flogging, and who is brought in to show that the stripes have been properly inflicted. Nor is this all: during the day, half-a-dozen notes will be received from different

* My readers need scarcely be reminded of the old joke: "Silence!" quoth the Justice. "I have decided three cases already, this morning, and

have not heard a word of one of them." But it is, alas! no jesting matter to the poor suitors.

English gentlemen, most of them containing some very improper request, that some form may be set aside, or some favour shown, either to themselves, a servant, or a dependant, who may be implicated in some case before the court; while piles of papers, orders, proclamations, &c., &c., from two to six inches high, are every hour thrown under his hand for *signature*, which habit has enabled him to execute mechanically, while listening to the various matters above alluded to. *Looking* at the papers before he signs them, is totally out of the question; his whole time would not suffice for that duty alone.

For the receipt of petitions relating to cases of which the police are not authorized to take cognizance, or to any other matters, a box is placed in some part of the office. The number will probably average from ten to fifty a day. It is evident that, with the mass of business above described, few of these can be attended to. This is well understood by all in authority, but, as the British system professes to give *justice to all*, no one can refuse to listen to a complaint. Various devices are, therefore, adopted to “dispose of” the superabundant petitions. Some functionaries have them read over either in office or in their houses, and pass their orders upon them, after which they are deposited in the records, that the orders may be explained to the petitioners; which, of course, is never done without a *douceur* to those who have the charge of the papers. Another professes to hear the petitioners *viva voce*; and every now and then, perhaps once in two, three, or more days, when there happens to be a lull in the hurricane of police cases, takes the accumulations out of the box, calls over the names, and passes orders on them. The majority of the petitioners will not, of course, be in attendance; some have gone away in despair; and others, though about the court, may be a little distance off, under a tree, or, from the noise, may not hear the call. Of *all these*, the petitions are consigned to the record-office, the order and the reason being written on the face of them to exculpate the judge, should any one assert that his complaint had not been attended to. Others, again, appoint one day in the week to hear petitions, justly calculating that the patience of a good many will be worn out, and that they will not be in attendance.

As this sort of business is sufficient to occupy the whole day, performed even in the imperfect manner which is above represented, and much will then remain undone, my readers will begin to wonder what becomes of the *civil* department, and I will now describe the mode in which that is carried on; premising that the native establishment for the judge's office was altogether separate from that of the magistrate, although the presiding officer was the same. On the complaint being filed, a notice is issued to the defendant; he comes into court at his leisure, perhaps not till some months afterwards; appoints a lawyer, and gives his answer: the rejoinder and replication follow at equal intervals. Then come exhibits, lists of witnesses, &c., filed. The latter are summoned at various times, and their evidence taken in writing in presence of the lawyers of both parties, by some native writer*, without even the pretence of its being done before the judge. When all on the part of the plaintiff has been gone through, the defendant's plea and proofs are filed in the same way; and finally after all this preliminary work (which ordinarily takes from one to three years to execute) the case is marked as *prepared*. Whenever the judge should happen to have a leisure hour or half hour, he calls out, "Bring me a civil case." The word is passed into the record-office. The head clerk of the court (*surishtehdar*,) selects any he pleases of those prepared; brings it up; looks to see who are the lawyers; sends a runner (*chuprassee*) to call them; and immediately proceeds to read all the papers of the case with the utmost possible speed, in the midst of the same sort of interruption as above described, at the end of which the judge calls out, "*Diggory*," (the *official Persian* for "Decree,") or Dismiss; or, in some cases, orders additional proofs or witnesses to be brought. By this time the lawyers and others connected with the civil court have collected thickly around, each in hopes that some case in which he is interested may be heard. The judge,

* The impossibility of the judge taking the depositions personally seems to be acknowledged. "You are desired to make it known as a general rule, that when a deposition may be taken before a native officer, he is to affix his signature, in token of its having been taken before him, in order that it may be seen to whom responsibility attaches in case of irregularity." — *Circular Orders of the Chief Court*, Oct. 25th, 1822.

too, is willing enough; but just at this moment, the criminal sheriff reports a heavy case of gang-robbery or boundary affray just arrived. "Postpone the civil," cries the judge, and, turning to the surishtehdar (or head clerk), "Make out the decree." Heigh! Presto! The whole party gather up their papers, and vanish, that the prisoners may be brought in, while the head man proceeds to draw out the decree. The reasons which may have induced the judge to give that particular decision, he either collects from the papers of the case, or draws for them upon his own imagination*.

Such is the mode in which business was conducted in the judge and magistrate's courts, when the offices were united in one individual. The confusion was almost incredible. No attempt was made at any order or accommodation for the parties concerned; not even for the officers of the court. The judge sat at a small table; all the rest stood round, and that, too, the whole day long (how they bore the fatigue is to me incomprehensible, particularly considering their usual habits!) while the crowd, the pushing, the squeezing, the Babel of tongues, formed altogether such an approximation to a bear-garden, that the usual observation of every English stranger who chanced to enter an Indian court of justice has been, "How is it possible to hear anything that is said, or tell what is going on?" Indeed, so great is the noise, and so vehement are the gestures and action, (characteristic of this commonly-called *apathetic* people when excited,) that I am convinced, were a man to be taken to one of these courts without knowing that he was approaching the seat of public justice, he would imagine that the whole assembly were in high altercation, and on the point of coming to blows. The offices of the collector and magistrate are now precisely in the same state. If any one doubts the truth of this picture, or con-

* This mode of proceeding must have been of common occurrence to draw forth the following observation:—"The Court of Sudder Dewanee (Chief Civil Court) have had frequent occasion to regret the extreme laxity and inattention which exists in the administration of justice. Civil cases appealed to the Superior Court frequently present no materials on which a just decree could be founded; and are accompanied by an incoherent and irrelevant mass of evidence, between which and the matter at issue it is difficult to perceive the slightest connexion."—*Civ. Orders*, Oct. 25th, 1822.

siders it exaggerated, only let him attend any court, either of the judge and magistrate, where they still exist united, or of the collector and magistrate under the new system, and he will soon subscribe to the fidelity of it.

After working in this way during the whole day, sickened at the exhibition of villainy, and still more by the reflection that thousands are complaining, with truth, that they cannot obtain justice, about five in the afternoon (or even six in the long days,) the judge-magistrate returns home, beset on the road, as in his way to office; and on reaching his house, he finds a fresh set of police-officers, spies, and others, waiting to address him. A short ride or drive, and his dinner, will give him one or two hours' respite; but often the evenings are devoted to business also. I have even known some who during breakfast time had the police reports read to them, and thus gained an additional hour *in office*. Such is the life of a judge and magistrate, who really attempts to perform his duty, without intermission, from one year's end to the other*. It is no exaggeration. I have known men go through this drudgery for five, six, aye, ten years together, sacrificing their time, their health, the comforts of domestic life, and the society of their friends, in a vain attempt to give satisfaction to those under their authority. I grant that those examples are few, and rarer now than ever, for indeed it would appear to those who have any regard for *themselves*, that they are examples rather to be avoided than imitated; so great is the risk of over-exertion in this country to an European constitution, and so little encouragement is there to persevere, and the only wonder is, that *any* attempt to follow them. The majority, indeed, do just as much as they are obliged, and no more; but, to their honour and credit be it recorded, some have done their *utmost*, and have devoted their entire bodily and mental energies, and even part of their *allowances*, to the cause. At the first commencement of

* The holidays in the magistrate's office are few, compared with those in the Civil Courts; and on most of these, often even on Sundays, the magistrate is hard at work at home. I have heard many say, they would rather not have any holidays, as their occurrence only put matters out of train, and gave them no respite. Thieving and quarrelling go on as usual, for rogues and rascals keep no holidays.

their career, particularly on taking charge of an office, many young men, of conscientious and benevolent feelings, have set to work with all the ardour and enthusiasm which the love of justice and hatred of oppression naturally inspire in such characters.

The history of one of these is instructive. His former life as "assistant" has been easy (for, generally speaking, an assistant can with moderate labour perform all that is required of him). He has been admitted behind the scenes, however, and has been struck with the injustice suffered by thousands, while he does not clearly perceive the real reason; viz., the overplus of business; and he resolves that when it comes to his turn, he will introduce a new order of things. As soon as he is installed, he is indefatigable. Morning, noon, and night, is he at work; investigating everything himself. He proclaims that he will be ready to hear any man's story in the office, at his own house, or wherever he may be met with. For some time he acts up to this. Several whose petitions have been lying neglected for months or even years, find their way to him. Their cases are fished up from the almost unfathomable depths of the record-office, and they obtain their end. The news quickly flies abroad that an hakim* (presiding officer) is now come from whose exertions justice is to be expected. The people flock in by scores and hundreds, either to get cases decided, which have been lying by for an indefinite period, or to bring forward complaints which they had till then been hopeless of ever obtaining a decision upon. The zealous young tyro is soon overwhelmed with business far beyond the ability of any three men to execute, and his physical powers would sink under the attempt. The repeated admonitions of his friends, "You are killing yourself for nothing: how can you be such a fool to overwork yourself so?" and the doctor's advice, added to his own exhausted spirits, at length conspire to a change of conduct. In hopeless despair he gradually relaxes his exertions; his habits of industry slacken; the love of ease and self-indulgence steals upon him; the example of most of those around him favours it; and if he does not degenerate entirely, the best that can be

* Hakim, a term applied to any civil officer, whether judge, magistrate, collector, &c.

hoped from him is that he will settle into a mere "Regulation man," who works the prescribed number of hours during the day, gets through what business can be done in that time, and leaves the rest to its fate. The poor people are, in the end, perhaps, worse off than if no extra exertion had been made. Their hopes are disappointed; and many who had been induced to bring forward well-founded accusations against the police and court-officers, are abandoned to the vindictive measures of those people.

The department of the collector has not been in any degree in a better state. Hundreds of people may there be found, who have just complaints relative to oppression of the *tuhseeldars**, over-exactions of rent, dispossession of lands, and various other points, and who have just as little chance of obtaining justice as those who are wasting their time in attendance at the office of the judge and magistrate. On the whole, perhaps, they are worse off, inasmuch as the collectors had not the same extent of check over them, in the shape of periodical reports, which in some measure obliged the judge and magistrate at least to carry the *appearance* of getting through the business. Often have I known the petitions in the collector's box to accumulate for a fortnight or three weeks, and then one-half to be referred for investigation to the subordinate officers, although many of these were complaints against the acts of these very officers, and the other half consigned to the record-office.

Such is, *in practice*, the boasted system which the English have introduced into India for the administration of justice. Lord Cornwallis, I believe, entertained the idea that it would attach the natives to the English government. The theory was plausible. It was said that "the old country courts" are notoriously corrupt and inefficient. "If we introduce efficient courts, in which men of integrity and ability preside, we shall not only *deserve* but *obtain* the gratitude of the people." Had the premises been fulfilled, the conclusion would most probably, indeed certainly, have followed; for habit has accustomed the people to a constant change of masters, and the only point they consider is, the qualifications of the *individual*; bestowing little thought about his

* Native revenue officers of subdivisions of districts.

caste, country, or religion. But has this been the result? On the contrary, is it not notorious that our courts have hitherto been more inefficient than the native establishments which they supplanted; that they have been infinitely more expensive; and that bribery and extortion have been practised to a much greater extent than were ever known before? Many extracts from official documents might here be quoted, to show that I am not exaggerating. I will adduce a few.

“The expense and delay,” says Sir H. Strachey, “to which the peasantry are subject in prosecuting their suits, are, to my knowledge, excessive. For the truth of this, I would refer to the records of any Register in Bengal.” “I have often seen a suitor, when stripped of his last rupee, and called on for the fee on a document, produce in court a silver ring, or other trinket, and beg that it might be received as a pledge; and after all, perhaps, he was cast for want of money to bring proof.”

The Court of Directors remark in 1803, on “the almost incredible number of causes undecided, that to judge by analogy of the courts of Europe, they would be induced to think so great an arrear could scarcely ever come to a hearing.”

The famous despatch of the Directors, dated March, 1812, speaks volumes:—“We should be sorry, that, from the accumulation of such arrears, there should ever be room to raise a question, whether it were better to leave the natives to their own arbitrary and precipitate tribunals, than to harass their feelings, and injure their property, by an endless procrastination of their suits, under the pretence of more deliberate justice.” Hear Mr. Dowdeswell, then Secretary to Government:—“To the people of India there is no protection of persons or property.” The Judge of Circuit in the Bareilly division in 1805, warns the Government against supposing that the lists transmitted from the courts exhibit an accurate view of the state of delinquency; because the cases are extremely numerous which are never brought before the magistrates, from the negligence or connivance of the police-officers, and the aversion of the people to draw upon themselves the burthen of a prosecution. Sir H. Strachey says, “Since the year 1793, crimes of all kinds are increased, and I think most

crimes are still increasing. The present increase may, perhaps, be doubtful; but I think no one can deny that immediately after 1793, during five or six years, it was most manifest and rapid; and that no considerable diminution has taken place." Mr. E. Stachey, Judge of Circuit in 1808, observes, "It cannot be denied that, in point of fact, there is no protection for persons or property; and that the present wretched, mechanical, inefficient system of police is a mere mockery. I do not speak of these evils merely to add that I lament their existence, but to propose a remedy, and to entreat that steps may be taken without delay to save some of the lives which are every day exposed to the banditti. I am this time oppressed with business; nearly seventeen hundred witnesses are kept from their homes, and three or four hundred prisoners remain untried. I cannot keep these people waiting while I am reading papers to procure information, digesting plans, and writing letters. I have no leisure but on Sundays and at nights; so I must be excused from going minutely into things now; and I shall only beg, for the present at least, I may have the credit of giving no overcharged statement, but simply describing things as they appear to me, from the most accurate observations I can make, and the best information I can procure; and I have only to recommend that relief be soon granted to the unfortunate people of this district.

"I have lately sent an order to the magistrate to bring to decision, without delay, seven complaints of this nature, all very serious, and most of them bearing the strongest appearance of truth. The complainants had been twice to the Court of Circuit, and once to the Nizamut Adalat,* and the magistrate, whenever they came, ordered the cases to be brought forward; yet they were not brought forward; and it is plain, that as far as regards the magistrate, the only reason for the neglect, was the multiplicity of business, which compelled him to trust to his court-officers for a proper selection of the most important cases."

Most of these extracts will be found in the Fifth Report, and all are from official documents. I would beg again to call the attention of my readers to the real circumstances of the case,

* Chief Criminal Court.

All have observed that substantial justice is not to be obtained ; and the defects of the Regulations, and the inefficiency of the civil service by whom they are administered, have furnished an ample field for declamation. Let justice be done to all parties. With respect to the former, I again repeat my opinion, that “ the Regulations of the Bengal Government contain, on the whole, principles infinitely better calculated to promote justice and good government, and, above all, more consonant to common sense, than could be extracted from the whole mass of English law.” I would also observe that those parts of the Regulations are best which are founded upon common sense, and are adapted to the circumstances of the country, and the customs of the people ; and that the chief failure in their efficiency has been where they have been framed upon the practice of the English courts of law. Also that, however expensive the Company’s courts are in India, they are infinitely less so than any which could be based upon English law, and required English lawyers to conduct the business. And as to the civil servants, though instances are not wanting of idleness, neglect of duty, and incapacity, I do them the justice to assert that no service in the world can be mentioned of which the members work harder, and, indeed, few so hard, as the civil servants of the East India Company. They are not to blame,—it is the system which is in fault, which has established, on an average, one court where there ought to be three or four. This is the real cause of the failure of the attempt to administer real justice to the people ; and the main-spring of the delay, extortion, and bribery, which are so universally complained of. Until this be remedied, all attempts at improvement are vain. The obvious plan would have been, to have established a sufficient number of courts to have performed the business. On this head the committee of the House of Commons, in 1812, made the following extraordinary declaration :—“ An augmentation of the number of European judges, adequate to the purposes required, would be attended with an augmentation of charge, which the state of the finances is not calculated to bear ; and the same objection occurs to the appointment of assistant judges.” Well does Mill observe, “ Never since man had the use of language,

was a more terrible condemnation on any government pronounced. Of all the duties of government, that of maintaining justice among the people is the foremost. This is, in fact, the *end* for which it exists. Here is said to be a government which raises upon the people a revenue so vast, that by avowed intention it is all that they can bear; that is, oppressive to the highest pitch which oppression can reach without desolating the country; till not a sufficiency remains to hire judges for the distribution of justice. What is made of all this money? To what preferable purpose is it applied? High matter, in large quantity, would be contained in a proper answer to these questions." We need not go far to seek the answer. The money has been wrung from the unfortunate people of India, and either squandered away, or sent home to increase the profits of the Courts of Proprietors.

Many of my readers will, perhaps, imagine that the extracts and quotations above made refer to times long passed, and that matters are now on a better footing. They deceive themselves; and are deceived by those whose interest it is to exhibit things in the most favourable point of view. What took place then, exists at the present moment; and the reason why we hear less of it is this:—In those days, the people were deceived and encouraged by our vehement protestations of distributing equal justice to rich and poor, high and low; and their just grievances were brought forward to those who were willing to listen to them. The judges of circuit, too, and those in authority, entertained hopes that a fair and true representation of the real state of things would produce some exertions on the part of Government to ameliorate the condition of the people. Subsequent experience has shown the fallacy of the hope. The all-absorbing idea, urged by the constant injunctions of the Court of Directors, of "*surplus revenue*," and "*remittances home*," has prevented any remedy. Representations of evils have been ill received; and the servants of Government have consequently almost ceased to make them, while the people submit (or rather have submitted hitherto), and suffer in despair, utterly hopeless of any remedy being applied to mitigate the miseries under which they labour. Is this statement too severe? What then has been done, let me

ask? What attempts have been made to diminish the evils complained of? Three or four additional courts, in which judge-magistrates preside; about a dozen joint-magistrates, who only attend to the police duties; a few deputy collectorships; and since the year 1814, a few native judges, denominated “Sudder Ameens*,” have been, until within the last two years, the only additional establishments which have been made,—a mere drop in the ocean, compared with what was required; for, be it remembered, that the proceedings of a judge-magistrate’s court, above described, are such as they existed till within the last two years, and such as they are at this moment, where the new system has not been carried into effect.

It is much to be lamented, that such an account of the proceedings had not been drawn up long ago, and affixed to the front of the desk of every Secretary to Government, of every board, and in the chief civil and criminal courts. It would have prevented the waste of much time, and the expenditure of a vast quantity of stationery; for it would have shown at a glance the inutility of many minutes, consultations, and circular orders. See, for instance, the circular orders of the Chief Court, dated March 10, 1820, enclosing a copy of a letter from the Secretary to Government, dated February 14, 1820, and an extract from the proceedings of the Governor-General in council, of the same date, relative to the non-execution of decrees of the civil courts. The production is enough to make one’s hair stand on end. It is stated that in the lower provinces alone, “during the last three years, scarcely any decrees which have been passed, either for real or personal property, have been carried into execution.” “From the statements it appears, that about *seventy thousand* decrees have been passed by the judges, registers, and sudder ameens, since February 1815, for execution of which no application has been made;” and it concludes with appointing an officer to inquire into the reason of this intolerable delay. The answer was obvious enough. The judges who were expected to do all this work (for they alone could execute decrees) could not possibly get through the business of the police, and miscellaneous

* An inferior grade of judge, held by the natives.

criminal department, in an efficient manner. Their own share of the regular civil business in deciding causes, to say nothing of the miscellaneous civil cases, and the appeals from the inferior tribunals, was almost altogether neglected; yet they were expected to execute decrees, decided by their registers, sudder ameens, and moonsiffs*, amounting, on the average, to from about five to fifteen hundred a-year in each district, which would require about as much time as half that number of original and civil suits! “Allah Kureem†!” as the Turk says, when he fires his gun at twice the distance from the enemy which it is possible for it to carry. “If it be the will of God, the ball will hit them. If not, I am helpless.”

The time occupied by the different judges in drawing up the reports called for, was, like the Turk's ammunition, so much wasted which might have been better employed. Some had the good sense to perceive this, and left the Chief Court to be edified by the effusions of their clerks, in the same way that some of the Turkish gunners, when ordered to fire by their officer, who was reclining in his tent at a respectable distance, put a little flour into their guns, and blowing it out through the touch-hole, made a show of smoke, which answered the purpose, wisely reserving their ammunition to some better effect. “It will be seen that the Sudder Dewanee Adalat‡ are obliged to pronounce the explanation which has been given to the courts, with few exceptions, to be in the highest degree unsatisfactory; insomuch so, as often to suggest that they have been left to the native writers and English clerks,” (*paper ut supra*). The Turkish officer found out the trick of the flour; and, giving a huge whiff from his pipe, called out, “No humbug!” He either could not, or would not, understand that when the enemy were three miles distant, the flour would answer every purpose of ammunition. “Issue the orders,” say the chief judges; “providence will possibly execute them.” But why are not applications made for the execution of decrees? The same paper furnishes the reply.

* Moonsiff is a grade still lower than the sudder ameen.

† “God is merciful!” a common expression among the Moslems of wonder or fear.

‡ Chief civil court.

“It seems to be inferred by the Sudder Dewanee Adalut, that execution is not sued out, because the creditors despair of success in getting their decrees enforced.” Never was there a truer inference made,—although, in a few cases, the parties would have made an arrangement between themselves. “Where,” exclaims the Turkish commandant, “are those rascally contractors, who do not bring up their quota of ammunition?” The contractors and commissaries replied, “The flour will answer every purpose, unless you venture a little nearer to the enemy.” The answer was considered highly “insubordinate and *unsatisfactory*,” so were the explanations of those district judges who were bold enough to tell the plain truth. The order and investigation, however, answered two ends. One, to give a fair colour to appearances at home; the other, to afford an opportunity of giving an appointment and extra allowance to some friend whom the Government wished to serve,—the only objects which can ever be effected by any such proceedings, until the root of the evil be attacked.

The misfortune is, that a permanent delay of business, caused by the accumulation being greater than the power of despatching it, invariably tends to reproduce itself. However small at first, it rapidly increases in almost more than a geometrical ratio. When causes cannot be decided for months, many will withhold just demands, trusting to the reluctance of their creditors to incur the delay and risk attendant on the prosecution of their just claims. From months it will be postponed to years, till, at last, it will end in a total denial of justice.

The papers, too, were multiplied two-fold, four-fold, even to twenty times the number which would have been requisite, had business been properly conducted at the beginning, all which accumulated during the time the case was in preparation, and which the judge-magistrate must, of course, read over when he heard it. In the decree execution, and in the miscellaneous departments, both civil and criminal, this was peculiarly apparent: many a case which need not have required more than half-a-dozen papers, sometimes not more than two or three, of every description, was often swelled out into a bundle two or

three inches thick ; the overplus being caused by petitions from the parties that their cause might be heard : orders from the judge to that effect ; reports from the office, &c., &c., often followed by fresh orders for postponement ; the officer being deterred from entering into it, when it came before him, by the size of the bundle, at a time when there was other urgent business on hand. In many courts, eight or ten petitions are daily received, simply begging that the causes of the petitions may be no longer be delayed.

Occasionally, the circumstances stated in one or two of these would appear of peculiar hardship, requiring particular and immediate investigation ; an order is issued to bring up the opposite party, and summon the witnesses, as the judge intends to examine it personally. So far well. But by the time these arrive, some heavy police cases have been brought in ; or an especial report is called for by the superior court ; perhaps on the state of the roads in some part of the district fifty miles distant from the judge's station, of which he is expected to be able to give complete account, notwithstanding he is absolutely *prohibited* from ever quitting his head quarters, except with special leave, or in case of some emergency, and he has no one who understands anything about road-making to depute as his superintendent in the office of inspector, &c. Some days elapse before the judge can find leisure ; and when the particular case is called for, the parties and witnesses are not found in attendance ; having spent what little money they had brought for subsistence, they have returned home to attend to their own concerns, and the case is restored to its *Lethale*, till, after one or two months have elapsed, a fresh petition is given in, when, perhaps, the same things occur over again. Often, on petitions of this nature, the order is to the officials of the court, to explain why the cases have been so long lying over. To many of these orders, no report is made, the officers literally not having *time* ; and when, after the lapse of some days, or even weeks, a written answer is returned, the usual order upon this is, " To be filed with the case, which is to be ready for hearing at leisure." Nor is all this delay confined to the district courts. The same pressure of

business is felt in every department. From Almorah a case of murder was once referred to Government, for orders, and no answer was received for two years. The same occurred, under a similar reference, at Assam, in which the answer was not received for three years. In October, 1829, two cases of murder were tried by the commissioner of the Furruckabad division, and referred to the Sudder Nizamut, from which court, up to the end of 1832, no orders had been received. It is often that several months, or even a year, elapse before any orders are received in criminal trials referred to the Chief Court: indeed, it would appear, from their own proceedings, that such delay is not uncommon. In 1816, a circular order was issued to the circuit judges, directing them, whenever six months had elapsed without any orders being received upon trials referred, to report the circumstances, and refresh the memory of the superior court. The same order repeated in 1827. During all these delays, the *prisoners remain in gaol*. Since the establishment of the branch court, at Allahabad, however, a great improvement for the better has taken place on this head.

All this is matter of fact, and would be amply proved by an inspection of the records of any judge-magistrate's office. Indeed, the officers themselves would testify to the truth of it, with the exception, perhaps, of a few ignorant and self-sufficient individuals, who are perfectly satisfied with the existing state of things, and declare that no such abuses exist in *their own* district, and that the people have no just reason to complain. The majority openly allow and deplore the miserable inefficiency of the system hitherto adopted for the administration of justice. Is it to be wondered at that bribery, extortion, and evils of every description, should abound, when from one-half to even three-fourths of those who have just complaints cannot obtain a hearing; or that the poor suitors should be driven to have recourse to every means, fair or foul, to get their wrongs redressed? The natives attached to the courts are fully aware of the real state of things. But this is not the case with the people at large. Some attribute their want of success to the inferior officers, who prevent their obtaining access to the judge,

and offer bribes to secure their interest in their favour; others conceive it to arise from the disinclination of the English functionary to take the trouble to hear them. "Here," they say, "we have been way-laying him on the road, daily, for the last fortnight, begging him to listen to us one moment, and to order our case to be brought forward, which could not take him long to decide." Others, again, who have any connexion with English gentlemen, are requesting, and often procuring, private notes to the judge, or other officer, to forward their business: while not a few actually entertain the belief (which is sometimes encouraged by the native officials of the courts, to increase their illicit gains,) that the English functionary shares in the peculations of his subordinates.

In the midst of the delay and confusion which has been above described, the extreme difficulty which an unprotected native must have in bringing forward any case of extortion and oppression against one in authority, may be imagined; particularly as the subordinate officers are all leagued together to quash such case, unless, indeed, some private spite should operate to induce one of them to prefer, or cause to be made, an accusation against another. Frequently has a complaint of this sort been dismissed as malicious and ill-founded, on repeated reports of the sheriff of the court, that the witnesses for the prosecution, together with the prosecutor, have absconded, and that he has made every attempt to discover them, but in vain; when, in reality, these very people were, at the same moment, outside the court, where they had been waiting for many days, without being able to gain access to the English functionary. As to the civilians, the greater part of those who know the real state of affairs, are driven into apathy, from despair and disgust at witnessing the abuses and injustice which exist under their own immediate superintendence and authority, and which they have no power to remedy. They mechanically go through the daily drudgery of their offices; return home, worn out with fatigue: and give order that no complainants shall be allowed to come near their house.

The above is a true representation of a judge and magistrate's court. One indispensable first step to remedy it is, to appoint a

sufficient number of officers to perform the business that will be brought before them. Unless this be done, all other attempts at improvement will be vain. Let us *practically* show the people that justice is to be obtained without having recourse to under-hand means, and that bribery will not assist an unjust claim: the whole will cease, as if by magic. Something has been done towards this desirable end. And in my next, I propose to consider the practical operation of the new courts of civil and sessions' judge, and collector and magistrate.

August, 1833.

No. XXIII.

ON THE NEW SYSTEM FOR THE ADMINISTRATION OF JUSTICE.

MY last number contained an account of the practical effects of the system of administering justice in India, prior to the late alterations, and it must be clearly evident to all unprejudiced minds, that there was ample room for amendment. Justice was, indeed, a misnomer. In the words of a civilian who had had long experience of the country, "In India, the doors of the hall of justice were never open, they only stood ajar; and he was a fortunate man who could squeeze in and obtain what he sought, notwithstanding he was able and willing to pay a high price for it." The poor and unfriended, of course, had no chance. Considering the extent of the districts annexed, about seventy miles long, by more than sixty broad, and containing each 4,775 towns and villages, with a population of above a million*, also that, according to the universally-received creed, the natives of India are extremely litigious, it might have been thought that the inefficiency of the established courts of justice would have been self-evident, it being utterly impossible for one judge to hear the suits of such a multitude. Nevertheless, it was a very long time

* This is the average taken from an estimate formed not more than four or five years ago.

(nearly forty years in Bengal, and thirty in the Upper Provinces) before our rulers were sufficiently acquainted with the wants and feelings of the people to discover this; for had they done so, with the philanthropic views they have professed towards India, they would doubtless have introduced some amendment. The real state of things, however, was at length, clearly ascertained, and the new system devised, the examination of which I propose to enter into in my present discussion.

Its principal feature is the separation of the magisterial from the judicial duties; the judge of each district is vested with the powers of the old Court of Appeal and Circuit, which courts have been partly, and are to be soon entirely, abolished, both as regards civil original causes, appeals, and holding the sessions within his own district. An officer, entitled principal sudder ameen (or even two or more, according to the size of the province,) is appointed, whose powers are nearly equal to those formerly possessed by a district judge; while inferior, officers bearing the names of sudder ameen, and moonsiff, varying in numbers according to the probable number of causes they would have to decide, have been appointed to try the minor cases. The police and magisterial departments are transferred to the collector of each district, and a deputy, and an increased number of assistants, have been appointed to aid him in his various duties.

Some, perhaps many, disapproved of this plan; but I think a great improvement was generally anticipated in the internal administration of the affairs of the country. It cannot, however, be denied that the result has produced much disappointment. Considerable reason, no doubt, exists for this feeling; while, on the other hand, much outcry has been raised without sufficient cause or reflection. Let us now examine the matter fairly, and, in so doing, the inquiry will resolve itself into two points, one relating to the duties of the civil and sessions' judge; the other, to those of the collector and magistrate.

First, for the court of the civil and sessions' judge. The union of the magisterial with the judicial duties, was an infinitely

greater anomaly than the junction of the former with those of the collector. In India, a magistrate should possess great activity, both of mind and body; and should not only be authorized, but ordered, to visit constantly every part of his district; while, comparatively speaking, no great knowledge of law or of the Regulations was necessary. All this was totally useless and out of the question when the office was coupled with that of judge: which personage was positively prohibited, except with special leave, on some urgent occasion, from quitting his head-quarter station. Besides this, in practice, there were many other curious anomalies. Take the following instance, for example: A. and B. had a dispute about a house or piece of ground: Mr. C., the magistrate, decides in favour of A., and places him in possession. B. appeals to the commissioner, Mr. D., who reverses the decision, and places B. in possession. A. brings a suit into the civil court, before Mr. C., who is judge as well as magistrate, and who, of course, supports his former decision; over which the commissioner has no control whatever. If B. is dissatisfied, the case must go before another tribunal. What is this, in reality, but an appeal from the decision of Mr. C. to Mr. D., and back again, from the decision of Mr. D. to Mr. C. Nay, the absurdity went still further; for when the suit was filed in the civil court, if the property were of small amount, it would most probably be referred to the register, Mr. E., and if the parties were dissatisfied with his decision, the case would be represented by appeal to the judge. So that the affair stands thus. Mr. C., who has been twelve or fourteen years in India, and has successively filled the situation of assistant, register, and judge, decides a dispute between A. and B. regarding landed property, in favour of A.—B. appeals to Mr. D., who has been twenty years in the country, having filled the offices of assistant, register, collector, or judge and commissioner, who gives a decision in favour of B. A. again appeals, and the cause is heard by Mr. E., a young man who has not been in India above three years, and who has spent a few months as an assistant to the magistrate and as many more, perhaps, as acting register; and if either of the parties are dissatisfied with his decision, it again comes before Mr. C., by

whom it was decided in the first instance. Many similar illustrations might be given, to show the extraordinary nature of the proceedings under the old system, even supposing the civil functionary to perform both duties in an efficient manner; but when it was notorious that, in few districts, if any, was it possible for one individual to execute those of the magistrate alone, properly, it became imperatively necessary to make some provision for the transaction of civil business.

Again, the very limited number of the judges of circuits, compared with the extent of country and the number of districts which required to be visited in their respective divisions, was such, that great delay and uncertainty occurred in the periods of holding the gaol-deliveries. A year has sometimes elapsed between the sessions; sometimes more; during which time those prisoners who were committed for trial immediately after the first were, of course, detained in confinement, some of whom would, probably, after all, be released, and others not sentenced to above a few months' imprisonment. The hardship and injustice which this entailed upon the people, could not fail to attract attention; and though it was a long time before a remedy was devised, this has, at length, been attempted. The first idea was, to appoint commissioners of revenue and circuit in smaller tracts of country, who should (as the name implies) perform the duties both of the Board of Revenue and of the Courts of Circuit. This was a decided improvement as far as related to the sessions' duties: but it was found that nearly the whole time of the commissioners was occupied with that particular business; consequently they could devote but little attention to the affairs of police and revenue. The result of which was, that great difficulty was experienced in realizing the Government demand, and that crimes of all sorts increased rapidly.

All this led to the plan which is now under experiment; viz., to transfer the magisterial duties from the judge to the collector, who was to have a deputy to assist him, while the judge was to devote his attention to the civil business, and to hold the sessions monthly, in his own district.

As far as relates to the sessions' duties, the plan has answered

very well. A gaol-delivery is (with the exception of an accident from illness, or other unavoidable cause,) held regularly every month, in each district; besides which, when any case is committed, in which the parties and witnesses are all present, it is tried the day after its commitment. It needs no discussion to prove how much better this is for all parties, and in those districts in which my experience lies, a much greater portion of those committed for trial have been found guilty than formerly, which is so much gained for the honest part of the community. For this, several reasons may be given. In the first place, the time which elapses between committal and trial is too short to make arrangements to buy off prosecutors and witnesses; to fabricate defences, and procure witnesses to swear to *alibis*, all which occasionally happened under the old system, (though not so often as is generally imagined,) but chiefly because the prosecutors and the witnesses come before the judge with every circumstance fresh in their memory; whereas, when a year elapsed between committal and trial, they often displayed so much discrepancy in their evidence, from sheer forgetfulness, that prisoners frequently escaped, of whose guilt there was little real doubt.

But I regret to say that, in many districts, little of the expected improvement has arisen in the civil department. In some, indeed, it is not at all better than before, and for the following reasons, among others. In the first place, some period must, of necessity, elapse before the new system could be brought into action. The immense number of candidates for the new judicial offices, and the requisite inquiries as to character and qualifications, previous to their selection, with the re-arrangement of their local distribution, would all occupy considerable time. The judge, too, has his own part to learn, being all at once called upon to perform duties of which he was before ignorant, and of which it must take some time to acquire the routine. In the next place, we must advert to the actual state of the civil business, of the mode of conducting which a description was given in my last paper; and when we consider that this state of things has been going on in Bengal for about forty, and in the

Upper Provinces for nearly thirty years, we may form some idea of the immense accumulation of arrears that now exists. On the average, in the different districts, the accumulation is as follows. On the judge's own file, regular, original, and appealed civil suits, about a hundred and fifty or two hundred, sufficient to employ a judge at least three months;—cases in execution of decrees* about four thousand, sufficient for a year or eighteen months' full occupation;—miscellaneous and summary cases and orders, about seven hundred, which would require about two or three months to despatch; supposing the judge to give his undivided attention to each point, for the time specified, for about six or seven hours a day in court, besides paper-work at home. But the current business is going on all this time: fresh suits are instituted, and new business of every description is daily brought into court, sufficient, on a moderate calculation, to occupy the judge full half of every month, at the old rate of business filed in the courts; so that had he nothing to do but the civil duty, nearly three or four years would elapse before, with every exertion, he could bring matters into the order in which they ought to be, so as to enable the suitors fairly to obtain justice. Besides this, there are, in every district, on the average, from three to four thousand decrees which may be called "outstanding," for which no petition for execution had ever been presented, from the hopelessness of getting anything done, but which are now daily brought forward; also a much greater quantity of business than ever is now brought into court, of every description, than was formerly the case; for hitherto the people considered filing a suit in the civil court (to use their own expression) as throwing so much money into the river, in the stamp and lawyer's fees which they were required to deposit. It should also

* Under the new system, the principal sudder amcens, and other subordinate judicial officers, are to execute their own decrees; but this is only prospective, and does not apply to those decrees already passed. See the circular orders of the Sudder Court, July 26th, 1833. Considerable doubts may, indeed, be entertained whether the plan will succeed, unless some additional powers, beyond what the Regulations at present sanction, be granted to enforce the execution. It will, probably, ultimately be found necessary to appoint an officer of experience, solely to superintend the execution of decrees. Of this more hereafter.

be noted, *en passant*, that no small quota of business was in each district received from the Provincial Court of the division upon its abolition. From all these circumstances, particularly from the increased proportion of business now brought into the courts, the "current civil business" alone would fully occupy a judge of a district three-fourths of his time at the rate of about six hours a day; so that, with the arrears cleared off, it will be nearly five years, supposing civil matters alone to be attended to, before the courts are in the state they ought to be. All these calculations are not founded upon supposition. The kindness of official friends has allowed me access to the records of more than one court, and I confidently assert that I have not overstated the matter. If Government should consider it exaggerated, let them call on the judges of those districts in which the new system has been in operation for a few months, and who have had time to examine the real state of their courts, for a report and their sentiments on the subject*.

Let us now consider what prospect of justice there exists for the suitors from the unassisted efforts of the civil and sessions' judge. First we must note the number of holidays during which the Civil Court is shut, and which are not more than is absolutely necessary to enable the respective classes to perform their religious ceremonies. Of these, those of the Christian community (including Sundays, Christmas-day, and Good Friday,—in England many others are observed in the public offices,) amount to fifty-four, Moosulman twenty-two, Hindoo fifty-three; total, one hundred and twenty-nine. But some of the holidays of the different sects will fall on the same day, which will make the total amount something less. In one year the total of the authorized holidays amounted to only a hundred and twenty. The number of days occupied by the sessions are fifty or sixty in those districts, where the business

* In one district, and that, too, one in which the civil business has generally been supposed not to be heavy, the arrears on the introduction of Regulation V. of 1831 was as follows:—Regular suits original and appeal, 243.—

Execution of Decree cases, 3640.—Miscellaneous, between seven and eight hundred. In the lower provinces the average of arrears would probably be much greater.

is *least*: in some they take up nearly the whole disposable month: on the average they would certainly occupy eight or ten days a month, or about a hundred days in the year,—total, two hundred and twenty days per year, or nineteen days and a half per month, on which no civil business is done*; leaving for the latter about eleven days a month: a period, generally speaking, not more than adequate to perform the current duties. How, then, can the existing arrears be cleared off?

Another point to be considered is, both the insufficiency and inefficiency of the native establishments attached to the judicial offices. Long inactivity has rendered them idle, and, in many instances, incapable of much exertion; nor is the establishment sufficient, in point of numbers, to perform the mere writing-work that is required, consequent on the increase of business which is done; for, be it remembered, that even these eleven days a month are a much larger portion of time than was ever before devoted to the civil business. Yet it is expected that the existing establishments may be reduced!

Such is the state and prospect of many of the Civil Courts at present, although some are being rapidly brought into an efficient state: well may the poor suitors exclaim that they are little better off than before. But the public in general have not sufficiently investigated the cause. The above representation will, however, I trust, render it sufficiently evident.

And now let us examine the result of the union of the offices of collector and magistrate. The new] arrangements certainly promised, in theory, to be a great improvement on the old, seeing that there were now three people appointed to do the work which was formerly allotted to two. Of the judge I have already spoken: and it was understood that on the addition of the magisterial duties, in every district, the collector was to have a deputy, between whom and himself some fair distribution of the duty would be arranged: either that each should take one of the entire duties of Revenue and Police, or that the district should be divided, and each perform both duties in his own portion. Under

* Some judges do perform some civil business on the days on which the sessions are held.

either plan, things must have been better than before. The collector would have no more to do than he had previously; indeed less, because he was to have a head-assistant, (*i. e.* a person intrusted with larger powers than the assistants formerly possessed,) to relieve him of part of his duty, while the undivided attention of the magistrate was to be given to his own department, he also having an assistant under him; whereas, formerly, a single officer with one register* was expected to conduct the duties both of judge and magistrate. It is mortifying to see, however, how little the natural expectations from these improvements have been realized. This has arisen, in the first instance, from, in many districts, the non-appointment of a deputy, and the employment of the head-assistant constantly on deputation in some other duty. In the districts where this has been the case, it has been utterly impossible that any proper attention could be paid to the business; and in others I fear the vain and selfish conduct of individuals has operated to retard the hoped-for amendment. A high conceit of their own qualifications, and jealousy of their deputies, have operated in a degree that, were it not matter of fact, would be hardly credited, to induce many of the collectors to endeavour to retain all the power in their own hands, while at the same time, almost without an exception, they exclaim against the accumulation of business beyond their power to execute, and the effect of this needs no comment. This petty, narrow policy seems most general among the junior members of the service, particularly those who are only officiating in the office of collector. Men of older standing, and some experience in business, have had the good sense to pursue a wiser course, both for their own interest and that of the service and of the people; and they have divided the duties, retaining one department for themselves, and handing over the other to their deputies. The consequence of the former conduct has been (obvious enough, indeed,) that the deputies, having little responsibility, and no real power, have had no stimulus to exertion; and as to the collectors

* This officer was a junior civil servant, and, in addition to taking charge of the records, and performing other miscellaneous duties, was employed to decide the minor civil and criminal cases.

doing both duties themselves, the very mention of it is only calculated to excite ridicule, from the preposterous absurdity of the attempt.

Doubtless other causes have contributed to the deteriorated state of the Police and Revenue departments. The progressive poverty of the people has rendered it more difficult to "realize the Government demand," seeing that nothing has been left to meet it; and, as a natural consequence, the increase of crime has kept pace with the impoverishment of the country. Reg. II. of 1832 has, with some, borne a considerable share of the blame, but I think much outcry has with little reason been raised against this Regulation. The object of the enactment is to protect the people against the extortions of the police, by the order that the police-officers shall not proceed to investigate any case of simple theft or burglary unless a written petition be presented to them, or until they receive an order to that effect from the magistrate. Like most human enactments, it contains both good and bad: but it is probable that, in the present instance, the good preponderates. Much has been said, and may be said on both sides: but this notorious fact cannot be disputed, which *is* notorious to all who have free communication with the natives; viz., that the people in general are delighted with the Regulation, and that the police are highly dissatisfied: inasmuch as one great source of extortion has been taken from them. *The people* find the evil of *the thieves* much less than that of the visitations of *the police*. That crime has increased in consequence of this Regulation is, I think, very doubtful, although I am aware that the police universally represent it to be the case, in hopes of procuring the reversion of the order; the poverty of the people, heavy pressure of the revenue exactions, and almost total denial of justice, are much more likely to be the cause of the increase of crime, than Regulation II. of 1832. Wherever there is a prospect of discovering the offenders, revenge for the injury sustained, particularly if there be the slightest hope of recovering any part of the stolen property, is quite sufficient to induce the injured party to come forward; and where there is not, the interference of the police is only an additional grievance to him who has been robbed. I could, indeed,

mention many instances, in which the existence of the Regulation has produced carelessness among the thieves, while the superior cunning and tact of the prosecutor, and of his friends or relations, have ultimately led to the apprehension of the offenders, and the recovery of a considerable part of the stolen property ; neither of which would have been the case under the old system. One part of the Regulation might perhaps be modified, where the prosecutor is required to give a *written* petition. A verbal and personal application would be sufficient ; but, after all, this can occasion but little delay, since if the prosecutor be really in earnest in requiring the assistance of the police, the writer at the police station is at hand to draw out a petition in a few minutes.

Having dwelt thus minutely upon the evils and inefficiency of the new plan, let us now inquire what remedy can be proposed to effect the good intentions of Government. But here I fear little encouragement can be hoped for, since increase of expenses is an indispensable requisite. First with regard to the office of civil and session judge ; the only plan will be to relieve these officers of the business of the sessions, and allow them to devote their whole time to the civil duties ; also to give them, when it is necessary, some little assistance, by an addition to their establishments. If Government will do this, they may reasonably expect some extra exertion on the part of their officers : and here I would again urge on our present Government the impolicy of wantonly injuring the feelings of their servants, by intimations *indirect* at least, if not *direct*, that *all* are considered corrupt, idle, or inefficient. The paralyzing effect of such insinuations and suspicions already on the exertions of the Civil Service is scarcely to be imagined ; and, although matters may appear better on paper, as far as relates to forms and reports, &c., and the extraordinary instances of *total neglect* of duty, which were formerly to be found here and there, in singular instances, may not be quite so prominent, yet, on the whole, much less real business is effected now than formerly.

I have alluded to the fact that more civil business is performed, notwithstanding the drawbacks which have been mentioned, than under the old system ; and it might reasonably be supposed that

some slight increase in the subordinate officers of the court might be necessary, at least till the old arrears should be cleared off. Yet Government has not only resisted every application of that nature hitherto made, but has intimated by a circular order (see letter from the Secretary to Government, dated 6th April, 1833,) that a further reduction was expected to be found practicable. "Allah Kureem*!" said the Turkish officer, "economy is now the order of the day; the Sublime Porte anticipates an extraordinary call for money.—put only half the charge of powder into your guns,—if it be the will of God, the balls will yet strike the enemy!" Many of the judges on the establishment of the new system set vigorously to work, working extra hours in their offices, besides at home, urged to this labour by the most praiseworthy motives. Looking forward to the prospect of retaining his office for six or seven years, a man felt that every additional hour at first starting would diminish his future labour in a two-fold degree; to say nothing of the satisfaction of perceiving that he was clearing off the arrears of years, bringing his office into order, and gaining the gratitude of the people by distributing justice in a manner to which they had long been strangers. They soon perceived, however, that the establishment of their offices was insufficient to perform the duties required, and were forced to apply for further assistance. On receiving the above-mentioned answer, their exertions were at once damped: finding those whose true interest it was to support them thus indisposed to second their endeavours, they were of course disheartened, and reduced their labour to the prescribed regulation standard. This might have been anticipated, it being impossible to expect that men would run the risk of injuring their own health, in a vain attempt to perform what was physically beyond their powers, while all assistance was withheld.

This is not mere declamation, it is positive matter of fact, and, indeed, but a natural result; for no man can work up-hill for ever; and when every possible counteraction was given, it is not to be wondered at that the patience of the judges began to fail.

* "God is merciful!" Moslem expression of alarm, or surprise, or resignation.

The native officers required the utmost efforts to stimulate them, not only from their long lethargy, but to compel them to work *malgré* their dislike to the new system ; for they clearly perceived, that if justice was once put upon a proper footing, most part of the illicit gains and speculation would, ere long, be checked. Another point, too, was the extraordinary disorder and confusion in which the records and papers of the Civil Courts had fallen from long neglect : yet all this was to be brought into order without any assistance. It is true, Government did in general terms authorise the judges to discharge such of their officers as were idle or inefficient ; but what was the consequence ? The person dismissed probably appealed to the Chief Court, who, probably, ordered him to be restored. The greater number of lawyers, too, disapprove of the system, which may, however, be considered a proof of its merit ; in any country, whenever the majority of the lawyers and the subordinate officers of courts are adverse to a measure, it is *prima facie* evidence that it is likely to prove beneficial to the community by rendering justice speedy and cheap. In the present instance the lawyers are sharp enough to perceive that the plan is a good one in the outline, and only requires a little filling up, which, by abolishing delay, would diminish half their perquisites. Some of the junior lawyers whose practice was small, who may be appointed to attend the subordinate court, like the plan : their gains will now be greater, having got rid of the competition of the lawyers of higher standing.

Should the above plan find favour in the sight of those in authority, the next point to be attended to is, to provide for the duties of the sessions. The commissioners cannot possibly be employed to hold them, unless they neglect their other duties. It will be necessary to appoint some other officers. Had Government been sufficiently aware of this at first, it would not have been difficult to have made a suitable arrangement, by at once carrying the new system into effect in every district, and appointing the judges of the Provincial Courts (now abolished) to different divisions, for the express purpose of holding the sessions ; thus leaving the district judges at leisure to bring their offices into order. The members of the Pro-

vincial Court would not have been, indeed, sufficient: some addition would have been requisite. But most of these courts have now been abolished, and the members absorbed into other departments, while some have died, and others returned home. The only thing therefore is now, either to appoint an increased number of Courts of Revenue and Circuit, and re-invest them with the sessions' duties, or to establish a small number of judges, who should solely attend to the latter, each in a division specified. Some such measure as this is imperative, if Government wish the business of the Civil Courts to be properly conducted; to be in operation, at least, from one to three years, by which time the different Civil Courts ought to be in proper train, for when they find themselves assisted, and the task not quite hopeless, they will do extra work. After this, the course to be adopted will depend upon circumstances. In some of the smaller districts, the civil and sessions' judge will, when his office is once cleared of arrears, and the new system brought fairly into operation, be able, with a fair share of labour, to perform all his own duty, and to exercise a vigorous and efficient control over the subordinate authorities. In the larger districts, such as Bareilly and Mynpoorie, which extend over the jurisdiction of two, or three, or even four, magistrates, it will be utterly impossible that any man can perform both duties to the satisfaction of the people. Either will be found quite enough to occupy the whole attention of a single individual.

With regard to the collector and magistrate, if Government wish to give a fair trial to their new system, they must avoid being led away by the pretensions of vain and self-sufficient young men, into supposing that in *any* district any one *person* can perform both duties. They should supply each with a deputy, to whose charge either the whole magistracy or the collectorate, or a divided portion of each, should be given; the remainder being in the hands of the collector; while each should be perfectly independent of the other. As to any scheme of requiring the collector generally to supervise the proceedings of his deputy, it is one of the fine-sounding phrases without meaning; for if the supervision be to any effect, it will occupy so much time that the

collector had better originally perform the business himself: or if it be (as it has practically been,) a mere loop-hole to enable the collector to keep the real power in his own hands, and gain the credit if matters go on well, of course he must take the responsibility when the contrary occurs; under which circumstances the deputy cannot be expected to make any great exertions. The native establishments of the Police and Revenue must be kept up to an efficient standard, more especially as crime is everywhere on the increase among the half-starving population. A *tuhseeldar*, or revenue officer of a subdivision, has already more work on his hands than he can perform, in his endeavours, by the alchemy of extortion, to convert the cattle, household-furniture, cooking-pots, and spinning-wheels, to say nothing of the *children* of the unfortunate people, into revenue for the Government officers*. It is impossible he can attend to the police-duties, for which in rare instances indeed he is a fit person. The economical plan of discharging the police-officers, and saddling their duties on the *tuhseeldars*, will no more succeed, than the attempt to make the collector perform those of the magistrate in addition to his own. Let the Police and Revenue departments be put on a footing which will afford some chance of the business being properly executed, and then a fair judgment may be pronounced as to the

* Perhaps some of my Indian readers may recollect, in a village or country town in England, the excitement produced by the event of any poor man having his goods seized for rent; the sympathy universally felt for the sufferer, even though his own misconduct may have been the cause of his ruin, and the general indignation against the "hard-hearted landlord." Yet here, hundreds and thousands are fleeced of everything, while scarce an expression of pity is uttered by the English community. Young men in charge of the revenue talk with the utmost *sang froid* of attaching estates by hundreds, with a view to their sale; and even the phrase, "The district is almost ruined," is constantly made use of without causing any feelings of abhorrence. It may certainly be said in

excuse, that habit reconciles us to almost anything. Does the sun of India dry up our sympathies, that in this country there is no one to stand forth as the poor man's friend? We may form some idea of the effect of our revenue-system, in the valuation of lands ordered by Government in suits for estates, with a view to rate the fees for stamps and lawyers. In the upper provinces the land is to be valued at one year's rents; where the permanent settlement exists, at three years; and in rent-free estates at eighteen years' rent! What would be thought in England of a system of government which should reduce the value of land to one year's purchase, at which price even few purchasers were to be found?

efficacy of the new system. Besides, by not totally amalgamating the two departments, it will be comparatively easy ultimately to separate them, and make the police and magistracy totally distinct. And to this it must come at last, when the collection of the revenue is reduced from the undue importance which is now attached to it, and confined within its proper sphere. On the appointment of natives invested with considerable police powers, under the name of aumil, or fonjar, similar to the principal sudder ameens and sudder ameens in the civil department, I shall probably enlarge at a future period.

It is to be hoped, that the strong and important representations already made of the existing state of things, will rouse the British Indian government, though late, to the necessity of making some proper provision for the administration of justice to the people who are subject to their authority ; this being the only legitimate end of the existence of any government.

August, 1833.

P. S. Just as this chapter was finished, Regulation VIII. of 1833 has been promulgated ; containing provisions for the appointment of additional judges to those districts where the work is heavy. It is therefore to be hoped that Government is in earnest in endeavouring to place the administration of justice on a proper footing.

No. XXIV.

ON THE INTRODUCTION OF ENGLISH LAW AND CUSTOMS INTO INDIA.

ONE of the points of character common to all nations, is a disposition to estimate themselves, their customs, and institutions, above those of all others. This feature, whether it be denominated nationality or vanity, has been acknowledged, I believe, generally, both by foreigners and intelligent writers among ourselves, to exist in a greater degree among the English than

any other people, and to display itself in its fullest extent in a foreign country. Since the European continent has been open to the rest of society, abundant opportunity has presented itself for the observation of this characteristic, and there is scarcely a modern book of travels, whether written by a philosopher, a satirist, or a general observer, but affords testimony, in a greater or less degree, to its truth. It remains, however, for India to disclose the utmost extravagance of this disposition; for here alone do we reign as lords paramount; here alone may we give full range to our self-love, and utter contempt of everything that differs from our own standard of right and wrong. The French, the Spaniard, the Italian, and the German, have all, by turns, given us the *retort courtoise*, but the poor native of Hindostan, alas! he knows not "master's customs nor master's language." How then can he raise his voice, or his pen, to shield himself, or his country, from abuse or misrepresentation?

The evil tendency of this inclination, has in few instances manifested itself more forcibly than in the attempts we have made to introduce our ideas of legislation and jurisprudence into this country. Ignorant as we must have been, on our first occupation of India, of the habits, customs, and manners of the people, it would surely have argued a wiser conduct to have examined a little into these points, before we ventured to effect so great a change among them; but this would, it seems, have been tantamount to an acknowledgment that we were not infallible; and few Englishmen will allow so mortifying a conclusion.

Necessity, however, has compelled us to yield to circumstances; and the wisdom of an enlightened few has adapted its measures to meet them. Hence the promulgations of the Regulations of the East India Company for the government of British India. A violent cry is now raised against the administration of which these are the oracle. It is pronounced to be utterly deficient in every requisite for good government, and the universal voice seems to require that it should no longer exist, but that the crown of England should take the management of affairs into its own hands. In this view, however, but a partial consideration has been given to the subject. It is probable that, under *what-*

ever management this empire may hereafter be placed, the future government will be better than it has been hitherto. The system is already decidedly improved; the day is gone by when it is the fashion to say that, "whatever is, is right." More liberal ideas have been introduced; men are allowed to express their sentiments unreservedly; the press is virtually free; and the consequence has been, that abuses can no longer hide themselves in obscurity, and that sounder views, and wise propositions for the benefit of the country and people, are brought forward. As to the present ministerial plan of burdening the territorial revenue with the dividends of the proprietors of East India stock, and the expenses of the Court of Directors and Home Indian Government, it is *impossible* that that can succeed. Ministers will be compelled to abandon it, even at the risk of their places; and this being settled, it is evident that the cloud of secrecy and oppression under which India has so long laboured will be gradually dispelled, and that the future management of her affairs will be conducted on maxims of better policy, and a more enlarged spirit of true philanthropy.

Should the country be taken into the hands of the Crown, without sufficiently advertng to the circumstances of the case, it is probable that the Government will claim, and receive, the merit of whatever improvement shall be effected, to the disparagement of the East India Company; yet it is very doubtful whether, had India been, from the first, subject to the immediate control of the crown of England, the country would have been at all better governed than it has been. For it is probable that, in addition to all the existing abuses, that of *jobbing* would have been superadded; and that the situations of members of council, and others of rank, responsibility, and emolument, would have been constantly filled up by the friends or followers of the existing administration in England, for whom it was necessary to provide, or whose opposition in Parliament it was requisite to buy off; men who were totally ignorant of India and all its concerns. Nay, according to a system very prevalent in the English government, it is not improbable that those appointed to these offices, in some instances, would have been allowed to

remain quietly at home, and to perform their duty by deputy. We cannot, of course, positively say that such would have been the case; but, judging from analogy, the probabilities are in its favour, and we should bear it all in mind, in judging and speaking of the past and future destinies of British India. The arbitrary nature, too, of the East India Company is also another ground for complaint. Not having ever been in a crown colony, I cannot speak from personal observation; but I have known many who have resided in several of our colonies, as well as in India; and they have universally spoken of the arbitrary proceedings there existing, as far exceeding anything that ever occurred in India.

But to the point. In all the complaints against the delay and expense of the Company's courts, sufficient distinction has never yet been made between what is chargeable on the Regulations themselves, and what ought to be attributed to the want of a proper number of officers to administer the law. My last two numbers will have supplied matter for reflection on this head. One main feature of difference in the laws enacted by the British Indian government, and the laws of England, should be constantly kept in view. In the former, as far as regards the civil and criminal law, as administered between man and man, (those relating to the collection of the revenue are full of the most cruel injustice,) the *benefit of the people*, and the real administration of justice, has been fairly and obviously intended; and common sense, with reference to the customs and habits of the people on whom they were to operate, has been the foundation on which they have been laid. And, although the reiterated demands from home for "surplus revenue" and "remittances" have prevented their being carried into effect in an efficient manner, this circumstance does not detract from whatever excellencies the laws themselves may possess. On the other hand, the principal point which has been kept in view in framing the English law, has been the *benefit of the lawyers*. A very good lawyer (Fielding), though he is too plain-spoken for the rest of the fraternity, and therefore not in good odour with them, observed that a stranger would suppose that English law was framed, not

with the object of protecting the honest part of the community from the machinations of villains, but that thieves and rogues should be able to escape punishment. This may pass as a good joke, but the effect has been much the same. The real state of the case is, that every department of the English law has been made as intricate, unintelligible, and dilatory as possible, in order to increase the business of the lawyers; and the effect has been to favour the *dishonest* at the expense of the *well-disposed*. Often and truly has it been observed, that the English are little aware how little they owe to their laws, and how much to public opinion. In England this has prevented the evils being felt as they otherwise would have been; but where English law has been introduced into countries where this public opinion, or where a free press did not exist, the evil effects have been lamentable.

It is true that occasionally some bright examples have shone forth among the English lawyers, of men who have laboured to expose and correct the evils which they saw, acknowledged, and deplored; but invariably have their efforts been opposed by the body of the bar, and every effort has been made to prevent any improvement from being adopted. This, it may be said, is no light charge; but examination will bear it out. I am not a technical lawyer, or I might be able to produce many more instances in proof of the assertion. Some, however, are obvious to all who read and observe what is passing around them. To begin: look at the "General Register" Act, one of the best institutions that has been proposed for years. It would injure no one but lawyers and rogues,—it would prevent the latter from defrauding the honest, and it would diminish the business of the former. The objections of these are, or rather would be, plausible, had the experiment never been tried; but the institution has existed for years in Scotland, Ireland, France, Switzerland, Prussia, Sweden, Denmark, Germany, Holland, and many other continental states, and even in two counties in England, Middlesex and Yorkshire, to the great and acknowledged benefit of all but lawyers and rogues. Yet, to the disgrace of England be it said, these two classes have hitherto had sufficient influence to

prevent so beneficial a measure from being generally introduced there. They have been mainly supported by working on the ignorance and vanity of the country gentlemen, to whom they represent that it would lower their dignity to have their private concerns laid open to the prying eyes of the public; as if the public at large would trouble themselves with an examination of the incumbrances already existing on any landed estate, or, indeed, *any one* but he to whom application was made for a loan or mortgage. “In the time of Cromwell, an attempt was made to establish a general registry, but failed, Cromwell declaring that the men of Belial (meaning the lawyers) were too strong for him.” “The system by which real property was at present transferred, certainly called for change, for the House must be aware that the laws by which real and personal property were regulated differed materially; the former being intricate and expensive in their application, while the latter were simple, and imposing little or no inconvenience. The effect of a general registry would be to shorten deeds, to simplify titles, and prevent the almost ruinous expense of the present system. It would be impossible for any one not in the profession to form a notion of the difficulties that surrounded almost every title in the kingdom, great and small, and the frauds that were daily practised in the conveyance of real property from one man to another. It sometimes happened that deeds could not be produced, owing to accident; but it much more frequently happened that they were kept back for a fraudulent purpose. Wilful frauds of this kind were much more frequent than the accidental omission of evidence of title; and this was particularly illustrated in the cases of mortgages and the creation of terms for years, separating the legal estate from the beneficial ownership. The expense and delay which perplexities of this nature occasioned, even to marketable titles, was incredible, and if any mode could be pointed out of obviating such evils, and was practicable, he thought the House should adopt it. Solicitors had raised a great outcry against the plan of a general registry, because it would affect their own profits; but it was not true, as they had asserted, that the effect of a general registry would be to deprive parties of the

custody of their deeds and parchments. The measure was only intended to be prospective; and, so far from any idle or curious persons being allowed to examine any titles they pleased, it was intended that no one should have the privilege of making a search until he had first proved to the registrar that he had an interest in the lands respecting which he desired information*." Now, in the East India Company's provinces, a registry office has been established since the first formation of a code. The establishment of District Courts, proposed by Lord Brougham, is another case in point. No reasonable man can doubt that they would be a great benefit to the community at large: yet they have been strenuously opposed; and it will require every exertion and influence to effect their establishment; the real and sole reason being, that it will diminish the business of the courts of the metropolis, and thereby lessen the profits of the lawyers attached to them. The opposition to all reform in the Court of Chancery has been notorious; a court in which many years ago it was stated that money to the amount of upwards of a million sterling was lying, decreed to various suitors, who declined to claim what was due to them, because the amount that it would be necessary to pay in *fees*, would be greater than that which they were entitled to receive.

Take another question,—the Act for the Relief of Insolvent Debtors. How many centuries had elapsed of English law and civilization before so obvious a measure of justice was enacted! How many years had passed since the establishment of the Supreme Court of Calcutta before it took place!—and even then, it was not by any act or recommendation of the court that it was effected, but by a petition from the mercantile community, supported by others; who, however, never thought of agitating the subject till one of the great mercantile aristocracy was arrested and thrown into gaol. Yet in the year 1806, only thirteen years after the formation of any regular code was begun in Bengal, and three years after it was formed in the Upper Provinces, were laws to that effect enacted for the East India Company's provinces. Regulation II. 1806, provides, that when a man has

* See Mr. William Brougham's speech in the House of Commons, on Wednesday, May 8, 1833.

been arrested and put in prison, if he fairly gives up all his property to his creditors, he is to be released. Also Regulation XXIII. of 1814, provides, that for a debt not exceeding sixty-four rupees, a man shall not suffer imprisonment for more than six months. It is not many years since, in England, a man might have been kept in gaol for *years* for a much less sum. Nay, after one action, in which, perhaps, a few shillings costs were unpaid, a new action, as it was called, "upon judgment," might be brought; the costs run up to twenty or thirty pounds, or more, and the unfortunate debtor confined for a still longer period. No such proceeding *could* have existed in the East India Company's courts. In arrests for debt, the following occurred not long ago in the Supreme Court. An officer who was on the point of embarking for England, was arrested in Calcutta for a large sum. He procured two people to give bail. The creditor objected to them, on the plea that they were men of straw, not possessed of any property whatever, and that if he were allowed a day's time he could prove it. The answer was, "No, these people have sworn they are worth so much; their bail is good, the debtor must be released." "What remedy is there for me?" asked the creditor. "You may prosecute them for perjury." "At whose expense?" "At your own; it will cost you about two thousand rupees*." So the debtor was released, and he immediately embarked for England, while the creditor was obliged to put up with his loss, and, if he pleased, expend two thousand rupees more in prosecuting the bail for perjury. Such is English law! In a Company's court the course would have been as follows:—the debtor would have been remanded, and a short time allowed the creditor to prove what he alleged. If he succeeded, the prosecution for perjury would have been on the part of Government, without one farthing expense to the creditor; and if his allegation against the bail was manifestly false, he would have been punished by a fine according to circumstances. Which course, let me ask, is most consonant to *justice*?

In arrests for debt, the English law is thus:—a man swears

* Two hundred pounds.

a debt of any amount against another, not the slightest inquiry is made at the time, or any provision that the *soi-disant* creditor shall prove his claim; a writ is immediately issued against the accused, who is arrested, required to give bail, or, if unable to procure it, thrown into prison. Should he be able to give bail, he is set at large, but he has no means of forcing his accuser to prove his claim and thereby manifest his own innocence, and the matter is allowed to remain in abeyance. In India, under the operation of our single Supreme Court, he may be dragged down a thousand miles to Calcutta, to the almost ruin of his concerns; and when he has regained his home, the same occurrence may take place over again, as often as the *soi-disant* creditor pleases, without the possibility of the accused being able to oblige his accuser to come to trial. Nay, by one process of the English law, a man may be sent to gaol on a charge of debt, although he be willing to give security to ten times the amount demanded, or even offer to deposit the actual sum. The transactions with respect to Hukeem Mendec Allec Khan will readily suggest themselves to my readers, in which this mode of proceeding was actually adopted, although he offered to deposit the sum for which he was arrested. He was only saved being dragged down to Calcutta by the (what was termed "illegal") interference of some gentlemen at the station where he resided. I have known in Calcutta a man who was a plaintiff, or a material witness in a police case, to be arrested on a false accusation for debt, the sole object being to keep him out of the way, and thereby quash the police case. When he inquired what redress he could procure, he was told, "a prosecution for perjury at your own expense," (viz. about two thousand rupees*). In the Company's courts no arrest for debt can take place until after a suit for the amount demanded has been filed in court; or, at least, unless the creditor files his suit at the moment of issuing the process of arrest; and then only on his giving reasonable grounds to suppose that the debtor is preparing to abscond, or is disposing of his property with a view to defeat the demand; and if the latter be able to prove that the allegation be manifestly

* Two hundred pounds.

false and malicious, the plaintiff would be fined according to the circumstances of the case. The refusal of the plaintiff to proceed in his case, or "come to trial," would not be tolerated: it is in the power of the defendant, by a petition to the court, to oblige him to bring the matter to issue, and afford him an opportunity of proving the point to be unfounded. Which proceeding is most consonant to *justice*?

In the case between masters and servants, relative to a claim for wages, (see a decision of Mr. Commissioner O'Hanlon, reported in the *India Gazette*, August 4th, 1833,) we have seen that, in the Court of Requests, in Calcutta, the decision is, that if a servant be discharged, with or without reason, at a moment's warning, he is entitled to his full wages for the entire month, however small the number of days of that month he may have served, or whatever be the cause of his discharge. As to the effect of such a decision, take the following dialogue between a bearer and his master's steward, occurring about the middle of August.—*Bearer*. "It is a long time since I have visited my family. I intend to go home at the end of the month, and am going to give my master notice that he may provide himself with another servant in my stead."—*Steward*. "Do not be so foolish; you will only receive your pay up to the end of this month: do not say a word to your master, but wait till the first or second of September, then neglect your duty, be insolent when he finds fault with you, and you will be discharged at a moment's warning: you can then claim your pay up to the end of September, and, if your master refuses, the court of requests will order him to pay you."—*Bearer*. "Is it possible that such can be law?"—*Steward*. "Perfectly true: a fine thing for us servants when we want to go home." So much for the interests of the masters. On the other hand, a master may, according to this law, discharge his servant without warning and without cause, on the last day of the month; the servant is only entitled to his wages up to that date. This is, doubtless, very good Calcutta or English law. Let us see what it is in the Company's courts. If a servant quit his master without cause, and without giving fifteen days' notice, he forfeits so much pay:—on the other hand, if a

master discharge his servant without cause, or without fifteen days' notice, he is obliged to give him as much extra pay as a compensation; while, if the servant has committed any palpable fault, of which the magistrate, before whom the case is brought, is the judge, he may, of course, be discharged at any time, without such compensation. Which proceeding, again, is most consonant to *justice*?

Let us now consider the practice in the execution of decrees. In a decree of the Supreme Court, a bailiff is deputed to attach the property of the defendant, wherever it may be, within the limits of the British provinces. The bailiff proceeds, accompanied by the plaintiff, (or some person on his part,) to the spot where the property is said to be, and attaches it. It very probably happens, (to my knowledge it has done so in certain cases,) that part of the property attached does not belong to the debtor, but has been sold or mortgaged by him a long time before the suit in the Supreme Court commenced, or even before the transaction, on which it was founded, arose, or perhaps, indeed, never was his actual property, being only what he intended to purchase. Those who are in possession of the property come forward, ready to prove their claims. No matter,—the property is attached, and the poor claimants are told they must either proceed to Calcutta (perhaps a thousand miles distant) or appoint an English lawyer there to prove their claim, at an expense of some thousand rupees*. The hardship on these people, who are, perhaps, native merchants or landholders, who never in their lives went fifty miles from home, is nothing,—nor is the expense considered of sending an English bailiff that distance from Calcutta by post. Such is English law. It is true that the whole business might

* My readers will recollect the case which lately occurred, of the attachment, by an officer of the Supreme Court, of the property and endowments of the temple at Singrampoor, near Futteghur. As to the justice of the proceeding, a court in England might as well have attached the church-lands of a bishopric, or the endowments of a public charity, in satisfaction of a private debt due by the bishop, or one of the governors of the charity. Yet it is not improbable that, from ignorance on the part of the superintendent of the temple as to how to proceed, or from want of funds to bring the case forward, the lands may be ultimately sold. Those who suffer will, however, have the satisfaction of obtaining *deliberate* justice. It is now sixteen months since the attachment took place, and no final order has been issued; so that it is not only in the Company's Courts that delay is found to exist.

be performed equally well, and with much less expense and delay to those concerned, through the medium of the Local Court; but to this there are two objections. 1st, The contempt* in which the Supreme Court has always held those of the Company; and, 2ndly, That it would diminish the business of the English lawyers.

The practice in the Company's Courts is as follows:—If the debtor or his property be situated in the district in which the decree has been passed, execution is issued by the court of the district. If they should be in another district, a proceeding is transmitted to the court of the latter, by which execution is issued; all claims to the property investigated on the spot, at an expense of from two to ten rupees to each claimant; the sale is ordered of what property is proved *bonâ fide* to belong to the debtor, and the proceeds transmitted to the first court, by which it is paid to the plaintiff. Nay, the latter is not even put to the expense of the discount of a banker's bill (*hoondean*) in transmitting the money, Government allowing it to be sent at *par*, through the collector's treasury, on the principle that the proceeds of all decrees are payable at the court by which they were passed. (See the circular orders of the Sudder Dewanee Adalat, dated May 21st, 1830, communicating the orders of Government to this effect.) Which proceeding is most consonant to *justice*?

By the English law, suitors are allowed, if they please, to sue personally. But what encouragement do they meet with from

* Take a few specimens of the dicta of different judges. "The Act of Parliament does not consider Mobaruck al Dowla as a sovereign prince. The jurisdiction of this court extends over all his dominions." "Who are the Provincial Chief and Council of Dacca? They are *no corporation* in the eye of the law. The Chief and Provincial Council of Dacca is an ideal body. A man might as well say that he was commanded by the King of the Fairies as by the Provincial Council of Dacca, because the law knows no such body." Conceive such language to be held by the Court of King's Bench, respecting

the Courts in Ireland and Canada; it would not be a whit more preposterous. "This action was likewise brought against *Black Agents*, whom the council at Patna had, contrary to their original institution, empowered to hear and determine a petition," &c. Well does Mill observe, "*Black Agents!* this is the *appropriate* name he bestows on the magistrates and judges of the highest respectability in the country." "*Hear and determine.*" This is what he affirms, "though he knew that they only collected evidence and reported."

—*Mill ut supra.*

the courts in any such attempt? Every possible impediment is thrown in their way; and the success of a suitor of this description is so rare, that it is universally considered as a piece of folly to attempt it. See a report of what occurred before the Lord Chancellor, in England, on the 20th of March last. His lordship's observations to the suitor are as follow :

“Mr. Pitt, there are two ways in which the King's subjects have a just right to be heard in a court of justice; namely, in person or by counsel. If they choose the former, they must take the consequence of delay; as counsel, particularly King's counsel, have a right of precedence. I repeat, that a subject has an undoubted right to be heard in person, but if he determines on that course, he must abide by the regular forms of court,”—that is, in plain English, “I cannot pronounce that a suitor may not plead personally; but it will be ruin to the bar should such a practice become general, and therefore I will throw every obstacle in the way.” This is the system universally acted upon in the English courts, towards all who attempt to plead their own cause; indeed, the rarity of the attempt, and still greater rarity of success, affords little inducement to any one to adopt this course. In the East India Company's Courts it is by no means an uncommon event for a person not only to plead in person, but *to gain his cause*; and that too, although the defendant should be a lawyer of the court! Out of two hundred and seventy-one consecutive decisions, original and appealed, the number of plaintiffs or appellants who sued personally was sixty-two, of defendants or respondents, thirty-five.

In the examination of witnesses, very great disregard is shown to the inconvenience to which people are subject in being summoned, at an immense expense, and to their great loss, from the absence from their concerns, some hundred miles from Calcutta, to attend the Supreme Court. In a great many instances the depositions could just as well be taken by the local courts; nor is the mode of proceeding at all foreign to the English law, either in Chancery or the Common Law Courts. But is this ever done by the Supreme Court in India? And, let the truth be spoken, jealousy, contempt of the local courts, added to the fear

of diminishing the profits of their own lawyers, prevents recourse being had to so obvious a measure of justice and convenience to the community. With the single exception of issuing a commission to swear witnesses to the truth of wills, I believe hardly an instance could be quoted, and even then two or three individuals are selected; the commission is not issued to the local court, although the presiding officer of that court may be one of the individuals, and perhaps he alone may act. The apprehension, probably, is, that if the local court were employed, it might be observed that that court might as well decide the cause, which would have a tendency to excite a question as to the utility of the Supreme Court.

It is undoubtedly a recognised and sound rule, that those who are acquainted with the merits of a case must give evidence; every individual submitting in his turn to a portion of inconvenience for the promotion of general justice, which, of course, is only to be obtained by a speedy remedy for every piece of injustice which any one may be tempted to commit. But it is also a maxim of sound justice, that the information which any individual possesses, relative to any case, should be obtained from him with as little inconvenience to himself as possible. But all this is not to be put in competition with the dignity of the Supreme Court, and the profits of the lawyers attached to it. In the Company's courts, when the witnesses in any cause reside at a distance, in another district, wherever the nature of the case will admit of it, the practice invariably is to send a proceeding to the court of the latter district, specifying the points on which evidence is required. The depositions of the witnesses are there taken, and transmitted to the court in which the suit is filed. I will put a case of by no means uncommon occurrence. A native borrows from another a large sum of money, on a bond duly drawn out and witnessed,—say in Suharumpoor. The borrower afterwards absconds; and the creditor, or some one on his behalf, not knowing where he is to be found, sets off in pursuit, and at length traces him to Calcutta, where the debtor has taken up his abode. A suit is entered in the Supreme Court, in which, of course, the validity of the bond must be established. For this

purpose, the unfortunate witnesses would be summoned the whole way from Suharunpoor. But had the creditor found his debtor settled in any of the local districts, in the court of which he filed his suit, the evidence of the witnesses to the bond would have been taken, as above mentioned, at Suharunpoor, by a proceeding sent from one court to the other. Which practice, again, is most consonant to JUSTICE?

Another evil of the mode of proceeding adhered to by the Supreme Court is, the facility it gives to the extortion of money by a dishonest man. Often, when a suit is filed in that court, subpoenas are issued, at the instance of the plaintiff, on rich native bankers and others residing at a distance, who know nothing whatever of the case; merely with a view of extorting money from them by the plaintiff, in consideration of which he promises not to insist on their proceeding to Calcutta. Doubtless, the Supreme Court could severely punish any person who, on prosecution, should be proved to have acted thus. But who is to bring the matter forward? The native who has been fleeced has little inclination to expend some hundred or even thousand pounds for this purpose, (for the prosecution would, at least, cost him that, and would require the summoning of many witnesses to prove the charge!) and should his own presence be necessary in Calcutta, a loss of some hundred or even thousand pounds more might, perhaps, be the consequence of absence for such a length of time as would be necessary for his concerns, besides the expense of travelling backwards and forwards.

Many other instances might be given; but these will be sufficient to show that the law in the Company's courts is not quite so bad as many people have laboured to prove. The real reason of the inefficiency of the latter is the want of a sufficient number of judges and magistrates to enforce the law. Some additional cases may probably be adduced in this and future papers. In the mean time, let us make a comparison on the criminal codes of the two systems of law.

In the severity of the criminal court, the superiority of that established by the British Indian government over that of the English law is immense. Some absurd letters have lately

appeared in the papers, respecting the severe sentences to which *the poor native convicts* are doomed. These are only conspicuous for an affectation of morbid sensibility, mixed with utter ignorance on the subject. For the truth of this, I appeal to the records of the Sudder Nizamut, in which will be found cases where men are imprisoned for life, fourteen years, seven years, and even less, for the crimes of wilful murder, highway-robbery, or gang-robbery, accompanied by murder; and other heinous crimes for which, by the English law, the sentence would have been death, commuted, at the least, to imprisonment for life. In the minor crimes of theft, burglary, and affrays, many a man is sentenced by the Company's courts to one or two years' imprisonment, who, in England, would have been transported for seven or fourteen years; or even sentenced to death.

And here I would advert to one part of the criminal jurisprudence of British India, which has been the subject of much animadversion, viz., the absurdity and injustice of trying Christians and Hindoos by the Muhammedan code. It is strange that people will sometimes declaim in utter ignorance of the subject on which they are treating. This is an instance in point. If any one will take the trouble to examine the Regulations of the Bengal Presidency, he will find that, although we professed to administer the Muhammedan criminal code, yet, almost from the first, it was virtually abolished; and the law-officer who sat with the English judge was, in reality, no more than an assessor. All mutilations, fines for the price of blood, and other cruel or absurd punishments, were at once prohibited; and imprisonment of various periods, with or without irons, or labour, was substituted. Moreover, whenever a person was pronounced by the law-officer not guilty, by reason of an exception, according to the Muhammedan law, against one or more of the witnesses, if this exception were manifestly against common sense, the law-officer was required to deliver an opinion as to the guilt of the prisoner, supposing the witnesses had been unexceptionable. Indeed, all that the Muhammedan law-officer had to declare in the way of sentence was, whether the prisoner were liable to severe or slight punishment: and even then the Chief Criminal Court had the power, ever

since the first establishment of a code of laws, altogether to set aside the opinion of the law-officer, and pronounce sentence according to their own decision. Further provision was made on this head in 1817 and other years. It may be granted that this was a very clumsy way of getting rid of absurdities, which might have been done by a plain, straightforward enactment: still they were obviated by these means; and the charge of guiding our criminal code by the Muhammedan law falls to the ground.

The difference in the expense in the Supreme Courts and those of the Company is another point of consideration.

In criminal prosecutions, the expense which is thrown upon the injured person has long been the disgrace of the English law; and the difficulty which an accused person, who is poor, finds in proving his innocence, is another equally infamous part of it.

When a person was accused of a crime, and brought before a magistrate, he was at once committed for trial; for which he might have to wait some months. (The assizes in England are held in the spring and summer.) It was to no purpose that the accused might have it in his power to bring forward incontrovertible proof that he was in a different part of the country, and that his person was mistaken for another. The magistrate's answer was, "I have no option: the accusation has been sworn to. You must go to jail (or give bail, as the case might be), and prove your innocence at the sessions." It is only within the last few years, (though England has been considered a civilized country for centuries,) that the magistrate has been allowed to hear evidence in the prisoner's defence, and exercise his discretion in committing him for trial. and even now, the witnesses must be summoned at the expense of the prisoner. Even when the case is committed for trial, it depends entirely upon the purse of the prisoner, and the exertions of his friends, to procure any evidence he may be able to bring forward to rebut the charge! Such is English law! In the East India Company's courts the following is the practice:—Everything the prisoner may have to urge is heard, witnesses are summoned through the police, without one farthing expense to the accused, and the case fully investigated by the magistrate in the first instance: and even when the grounds

of commitment are fully substantiated, the prisoner is again asked if he has any additional evidence, either to prove his innocence of the particular charge, or to testify to general good character, which he may wish to produce at the sessions. These are summoned when the time comes, on the part of Government, and their names entered in the calendar, which is sent by the magistrate to the sessions' judge. Which course is most consonant to justice? In fact the whole proceedings in criminal trials are in the Company's courts carried on entirely on the part of Government, without any expense to the parties concerned*; and the only real inconvenience to which they are subject is, the time during which they are in attendance on the courts; a great but unavoidable evil, which must in all countries be submitted to by a few, for the benefit of the community. I am perfectly aware that, in practice, certain extortions are frequently practised by the police in such cases, but these arise from the often-lamented extent of jurisdiction, and overplus of business beyond what the magistrate can possibly perform efficiently, and do not detract from the excellence of the laws, such as I have above stated.

Let us now inquire into the expense of the two systems of law in civil suits. To enable my readers to judge, I will annex a calculation of the costs of suit in claims for various amounts in the different courts established by the British government for the Bengal provinces.

In a suit for real or personal property valued at 300 rupees instituted in a moonsiff's court, (a sort of local court of requests for causes of small amount,) the sole expense to which the parties are necessarily put is 16 rupees for the institution-fee, payable in the first instance by the plaintiff. If the property do not exceed 16 rupees the fee is one rupee, those of intermediate amount being in proportion. In few of the moonsiff's courts are any lawyers allowed to plead; where they are, and if the parties choose to employ them, (which is seldom done,) the

* This may seem a contradiction to what was stated in No. XXII. relative to a charge of a small sum paid by a magistrate to a poor witness. Witnesses summoned by a magistrate are not allowed then expenses, except they are in extreme poverty: those summoned for the sessions are entitled to subsistence-money. This is always paid by Government.

pleader's fee is settled between him and his client, in no case to exceed five per cent. In general, the summons to the defendant and witnesses is served by the parties, or their servants; where it may be necessary to appoint court-runners (*muskoooree chuprassees*) on an average, the expense on both sides may be from one to three rupees more, according to the distance of the residence of those summoned; so that the total costs in the most expensive mode of proceeding in a suit of which the cause of action is 300 rupees, would be barely 50 rupees. If the suit were heard in the judge's court, the total costs on both sides would be on the average, (allowing for some variation, according to the number of exhibits filed, of witnesses required, and the distance at which the latter resided,) about 60 or 65 rupees.

In a suit instituted in the judge's court, whether heard by himself or referred to a subordinate officer, for property to the amount of 5000 rupees, the total costs (allowing for the variation above alluded to) on both sides would be, on an average calculation, about 675 rupees. On a suit for property to the amount of 100,000 rupees, on the same calculation, they would be 3050 rupees.

Thus we see that the costs of suit per cent. on causes of the respective values above enumerated, in the different Company's courts, are, respectively, excluding fractions, 16 rupees, 21 rupees, 13 rupees, and 3 rupees. But I will state the matter fairly. On claims of an intermediate amount, the institution-fee is to a certain extent the same as for those of a higher grade. Thus, in a suit for property to the value of 60,000 rupees, the costs would be the same as in a cause for 100,000; viz., 2850 rupees, or nearly five per cent. In a suit of 1000 rupees, the costs would average about 160 rupees, or 16 per cent. In one for 100 rupees before a moonsiff, the costs would amount to about 20 rupees.

In all these, the calculations include the total costs of *both* parties, and are made on the most expensive mode of proceeding, according to the form prescribed by the law, and on the supposition that every cause proceeds to a decision. In the event of a suit being adjusted between the parties and withdrawn, either

the whole or one-half of the institution-fee is returned, according to the state to which the cause had proceeded.

These will enable us to form a fair average of the expenses of a civil suit, of small or large amount, in the Company's courts, viz., about $13\frac{1}{2}$ per cent. of the value of the cause of action : of course, if the parties plead their own cause, the expense will be much less. Will the expense of the Supreme Court, or of any court formed according to English law, bear a comparison ? In the Calcutta court of requests, in a decision on a suit for 100 rupees, supposing only two witnesses were summoned on each side, the *least* costs that can be incurred are 20 rupees.

I have not sufficient documents by me to show to what average per centage the costs in civil suits amount to in the Supreme Court, but I can mention a few instances which have come within my observation by way of illustration. In a suit for damages laid at 400-rupees, the costs amounted to 1600 rupees. I once saw the bill of a lawyer to a defendant in a criminal action, in which not one witness was summoned on his part ; a few communications only were received from his client, and a few speeches and motions made in court : the bill amounted to upwards of *four hundred pounds sterling*. In another case a man died, leaving about 4000*l.* to trustees for the benefit of his children. His widow disputed the will, and the matter was brought into the Supreme Court in Calcutta. The first point was to ascertain the question of jurisdiction, *i. e.*, whether the case was cognizable by the Supreme Court : as a matter of course the judges declared that it was ; indeed, the arguing this point is virtually a useless farce, as, from the ambitious and grasping disposition always shown by the judges, every one knows what the decision will be. This proceeding alone cost 1200*l.* I will state, without fear of contradiction, that the principal English merchants in Calcutta, (who are on the spot to contradict it, if this be incorrect,) have for years considered a resort to the Supreme Court merely as the *ultima ratio*, by way of punishing an unjust debtor, and thereby deterring others from acting in a fraudulent manner ; not with any hope of bettering themselves. Besides, the great curse

of English law is, that a suitor can never form even a guess of what his expenses may be: the admitted charges between the parties, as costs, which are awarded to him who gains the cause, are almost invariably very inferior to the actual disbursements. I know an instance in an action for damages, where the plaintiff gained his damages and *costs* too, yet he was considerably out of pocket by the transaction*. It very much depends on the attorney. One man will conduct a suit at half the charge which another may contrive to impose. No such proceedings can take place in the Company's courts: the established charges and lawyer's fees include the whole remuneration for every act performed in the suit; and any lawyer attached to these courts who should receive any remuneration beyond the established fees, would be liable to be dismissed from his situation. This will, perhaps, be sufficient to give an idea of the difference in the expenses and practices in the English law-courts and those of the Company. If, however, anything is incorrectly stated to the disparagement of the former, those interested have it in their power to disprove it, by publishing, for general information, a few lawyers' bills, and statements of costs incurred in different actions, civil and criminal.

The great ambition of the Supreme Court, ever since its establishment, has been to extend its authority over the provinces, to an extent which was never contemplated by the Parliament of England when the court was first instituted. The proceedings which took place shortly after its first formation, must be familiar to many of my readers; and I would strongly recommend those who are not acquainted with them to peruse the account in the sixth chapter of the fifth book of Mill's History. They will there find ample proof of the principles on which the judges of

* The complaint is, that in the local courts a suitor cannot obtain a hearing. In the Supreme Court he obtains his hearing and decree too; gains his thousand rupees, legal costs included; and immediately is called on to pay, perhaps, twelve hundred rupees extra charges. Really King Log is a less evil than King Stork. A native lawyer thinks himself tolerably well off when he makes thirty or forty rupees per month; some few in the higher courts make even a thousand rupees per month. If to pay these people he, as it is said, an intolerable burden on the community, how could they possibly remunerate English lawyers, who would expect hundreds, where the native lawyers are satisfied with tens?

that day acted. Every authority in the country, except their own, was set at nought. The feelings and customs of the people were totally disregarded; and the Supreme Court virtually claimed to be the only legal tribunal of justice in India. The same spirit has actuated the different judges to the present day, and they have been restrained by prudential considerations alone, from proceeding to the same extremes. The conduct of the late judges at Bombay is an instance in point. They assumed the power of releasing native convicts condemned according to law by the provincial courts. It is obvious that had this been submitted to, the whole functions of Government and its officers would have been annihilated. The result is well known,—that, on appeal to the King in Council, the power assumed by the court was instantly pronounced to be wholly unjustifiable, to a degree to call forth the displeasure of his Majesty, and cause the removal of the judges. There were some unfortunate circumstances in the discussion between the Government and the Supreme Court. In the anxiety of Sir John Malcolm and the council to treat the court with proper respect, certain expressions were used which had better have been omitted. Among others was the term “political expediency.” This gave rise to a fine opportunity for display on the part of the court. “Good heavens!” exclaimed the judges, “shall we sacrifice our consciences, our sense of justice, and of what is due to the dignity of the Supreme Court, to political expediency?” &c., &c. Now, Sir John Malcolm’s letter should have been to this effect. “As we are convinced you are acting illegally, we are determined to resist this new assumption of authority;” “*suaviter in modo, fortiter in re*,” but still clearly to this effect. However, substantially, the Bombay government acted as they ought to have done, and put a stop to pretensions, which, had they been carried into effect, would have subverted the whole government of the British Indian empire on that side of the country. Yet it was curious to see how these pretensions were echoed both at Madras and in Bengal: they did not certainly *act* upon them to a greater extent than they had done before, having sufficient prudence to wait the reply to the reference to England; but the language held, and the sentiments

expressed, probably by way of sounding the feelings of Government and the public as to how such pretensions would be tolerated, were sufficiently indicative of their inclinations.

One of the schemes for extending the jurisdiction of the Supreme Court, has been the establishing of what is called “constructive residence;” which is this:—That if a native, a resident in any part of the British provinces, who had never been within even a thousand miles of Calcutta, possessed *any* property within Calcutta, he was not only answerable to the Supreme Court for transactions relative to that property, but that he was a “constructive inhabitant” of Calcutta, and therefore amenable to the Supreme Court for *any* transactions relative to *any* property he might possess in *any* part of the British provinces!—The Supreme Court at Madras has advanced precisely the same pretensions. What should we say to the pretension on the part of the Court of King’s Bench in England, that an inhabitant of Upper Canada, who had never in his life been out of that province, but who chanced to be possessed of some property in England (although it might have only devolved to him a few days previous by will), was a “constructive inhabitant” of London, and therefore amenable to the Courts of King’s Bench for *any* transaction relative to *any* property he might possess in Upper Canada! Or what should we say, if the Court of King’s Bench were to issue a writ of habeas corpus to a magistrate in Canada, commanding him to produce the person of a prisoner whom he had sentenced to punishment, and answer to that court the allegation of having illegally imprisoned the person sentenced. The one pretension would not be a whit more preposterous, absurd, or illegal, than the other: for the local courts in India rest on as solid a foundation as those in Canada. Nay, further, what would be thought if the Court of King’s Bench were to send its bailiffs into France or Spain to seize a native of either of those provinces? Yet this is no more than has been done by the Supreme Courts both of Madras and Bombay. (See the minute of Sir Charles Metcalfe in the Secret Department, date 15th April, 1829.)

Such are a sample of the proceedings of a court, which is avowedly established for the purpose of checking unauthorised

assumptions of power by those in authority! These are not merely insulated proceedings of single judges, but a specimen of the whole tenour of the behaviour of the court, and the attempts systematically made to extend its authority, ever since its establishment. The mode, too, resorted to in former days, to enforce the orders of the court is well worthy of consideration. In civil process, forcible entry is quite at variance with the spirit and letter of the English law: yet bailiffs and attorneys were often sent with large bodies of armed men to arrest natives residing many miles from Calcutta. The houses of natives of rank were forcibly broken open, and even the zananahs (private apartments of the women) were violently entered ("one of the last outrages which might be expected at the hands of an implacable foe"), and the people and their servants beaten and wounded in the attack: and this, too, in a primary process of arrest in an action for debt! Yet the judges of the Supreme Court highly approved of the conduct of their officers, and even wrote direct to the military commandant on the spot to afford them additional assistance! It is probable that the English law might be greatly improved on the point of arrests in civil cases; but it was the duty of the judges to have administered the law *as it existed*. (See the chapter before quoted in Mill.) Can anything be quoted on the part of Government of so arbitrary a nature as these examples?

It is impossible that the different judges can have reflected on the consequences of their conduct. Many of them, in common with others, have decried the delay which takes place in the Company's courts, which it is proved by different publications and late enactments must be plainly attributable not to the idleness or incapacity of the judges of the latter, but to the press of business beyond their power to execute. Do the judges of the Supreme Court imagine that after they shall have succeeded in annihilating the civil government of the country, (which is the inevitable tendency of their pretensions and proceedings), they could perform the whole business? Even if they claim only the right of supervision, can they pretend to do this effectually over the thirty or forty thousand cases of various descriptions which are monthly decided by the Company's courts of civil

justice, revenue, and police? Yet they have arrogated to themselves this right. "A correspondence on the subject between the council and the Supreme Court took place in the year 1775. The court said, that the council had a right to receive appeals in all cases in which the provincial councils had a *legal* jurisdiction. This the council treated as a denial of any right at all, as the court, by not telling what they meant by *legal*, and reserving to themselves a right of deciding, without rule, on each case which occurred, had the power of deciding just as they pleased." (*Mill, ut supra.*) At the same time they denied that any *legal* authority to pass sentences, and give decisions, existed in the provincial councils and local courts. Nevertheless, they claimed the power of interfering with any and every act performed by these authorities! The extent of the different districts subject to each local court has not failed to attract attention, as imposing hardship on the suitors, in the distance they are obliged to travel to prosecute any claim. It is, doubtless, a sore grievance, for the distance sometimes exceeds a hundred miles; but what would it be with one Supreme Court, situated in one corner of the Bengal presidency, to which the suitors must have recourse from the distance of even more than a thousand miles?

The speedier despatch of business in the Supreme Court, compared with those of the Company, has been adduced to the advantage of the former and disparagement of the latter. It is worth while to attend to the different circumstances under which the operations of the two are conducted, which may be divided into two heads—the extent of territory and amount of population under the authority of each court, and the establishment of each. The local jurisdiction of a judge-magistrate, it has been shown, on the average, comprises a tract of country seventy miles long by more than sixty broad; containing 4775 towns and villages, and a population of more than a million. The establishment for the court consisted of one English judge, and sometimes two registers; and sometimes one, or even two, assistants. Often the judge was left singly to perform the whole duty, which has been sufficiently described already, in former papers of the series (see Nos. XIII., XIV., and XXII). To assist him, he had from ten

to twenty native officers, besides court-runners (*chuprassees*), and the expense of the whole establishment averaged about four thousand rupees per month*.

The extent of country subject to the Supreme Court in Calcutta, on the other hand, is about five miles long, by one broad, and contains a population of about 300,000†. To administer justice over this space, there is, first, the Supreme Court, in which are three judges, whose individual salaries are nearly double the whole establishment of a Company's court; a sheriff, deputy, &c, altogether twenty-two officers; most of them English gentlemen of rank and talent, all of whom receive most liberal emoluments; besides a host of bailiffs, and other subordinate officers, both English and native. Secondly, the court of requests for the recovery of small debts; consisting of three English commissioners, and a subordinate establishment, in itself nearly equal to that of a judge and magistrate's court. Thirdly, a police office, consisting of a chief magistrate, a superintendent of police, four other magistrates, on liberal salaries, and a numerous subordinate list of officers. Fourthly, a numerous body of

* Four thousand pounds per annum.

† This statement has been impugned, and I am said greatly to underrate the population of Calcutta. I am perfectly aware that it has been estimated at a much higher amount, but this has been by little more than guess. So far back as 1802, it was reckoned at 600,000. The Calcutta magistrates have not yet borne the best character for efficiency and activity; and, as the official returns on these and other similar points are little to be depended on, we must make the best judgment we can by probabilities.

London, Westminster, the Borough, and the parts immediately adjacent, are about nine miles long by four broad; that is, thirty-six square miles: the ground contains but few bare places, but is thickly covered with houses of four to six stories, and the population is, at the utmost, 1,200,000. Calcutta is about five miles long, by a little more than a mile broad (according to the map published in the Directory); that is, about six square miles: of this, one

fifth is occupied by the esplanade, and open space in that direction; nearly another fifth is occupied by Choultry, in which are houses surrounded by large enclosures, containing very few inhabitants; and large parts of the rest of the city are covered with one-storied huts;—yet we are to believe that this city contains more than half as much population as London. Delhi is fully two-thirds as large as Calcutta, and is as thickly peopled, yet the population of Delhi is computed at 160,000. The same proportion will be found at Benares, and other large towns. Until we have authentic returns of the population of Calcutta, we can only judge by analogy, and, in this view, the probability is, that 300,000 will be rather over than under the mark. Since this was written, I have discovered that a census was taken in 1822, making the total resident population of Calcutta 179,917. The number of persons entering daily for business, from the suburbs, and across the river, supposed to be 100,000.

honorary magistrates, or justices of the peace. The gaol, too, has its separate establishment and superintendent. Surely if business were not performed in Calcutta with greater despatch than in a local (*mofussil*) Indian court, either the Calcutta authorities must be charged with the most extraordinary inefficiency, or the inhabitants of that city must be the most turbulent and litigious people in the world; while the population of the Bengal provinces must be the most peaceable and well-disposed. There is not, probably, another instance in existence, of so small an extent of jurisdiction supplied with so large and so expensive an establishment for the administration of justice, as that which is subject to the Supreme Court of Calcutta.

The amount of business performed by the respective courts remains to be considered. The number of decisions and orders, civil, criminal, and miscellaneous, passed by a judge and magistrate in a local court, would average about three hundred and fifty per month; and it is no exaggeration to affirm, that there is as much work done in the court of any judge, magistrate, civil and session judge, or commissioner, in a *month*, as is performed in the Supreme Court in a *year*. Every one will acknowledge and deplore the great delay to which suitors are liable in the local courts; but this does not arise from defects in the law, or neglect of the presidency officers, but from the great accumulation of business, arising in so vast an extent of country, and the immense population which is subject to each, being beyond the powers of the existing establishments to execute.

The business of the Supreme Court, on the other hand, is very moderate; during periods which, united, amount to about one half the year, the court is closed; and during the other half, I doubt whether the business would occupy, on the average, above three hours a day*. Considering the limited extent of the proper jurisdiction, it would be strange if it required more; indeed, were there any object in making the exertion, it might

* Sometimes the judges are not in court half an hour, merely to go through some legal form: at others, they hear an argument one day, the reply on another, and give judgment on a third; and that, too, in a matter of routine, which might be settled in two or three hours. The judges are obliged to have recourse to such manoeuvres, in order to make it appear that the court has much business before it.

probably be disposed of in a much shorter space of time ; but, as long as the business is so small, there is no necessity for this. They also perform some little portion of work in chambers. I knew an attorney, also an officer of the Supreme Court, who made a tour in the Upper Provinces a few years since, and took the opportunity of examining the business of the local courts. He was perfectly astonished at the quantity of business that was performed, and declared that he was convinced the labour of the Company's functionaries was ten times greater than that of the judges of the Supreme Court. Yet it has been clearly shown, that it is insufficient to perform all that ought to be done.

This is the real reason of the despatch in the Supreme Courts, and the delays in the Local Courts. It is not the superiority of the English law over that established by the British Indian government for the guidance of the provinces, that makes the difference. Until some such experiment as the following be tried, no fair comparison can be drawn. Suppose a tract of country around Calcutta sufficient to increase the population to about a million, should be added to the jurisdiction of that city ; that the offices of the police magistrates, justices of the peace, and sheriff, be abolished, and the duty of the whole, besides the entire civil business of all the tract, excepting part of that performed by the Court of Requests, which should remain, (answering to our moonsiff's courts, but that court has larger powers than the moonsiffs were intrusted with), also the charge of the gaol and the superintendence of the labour of the convicts, and the general repair of the roads, were imposed on one individual, who should occasionally be supplied with an assistant to decide minor cases, but oftener left to do the whole work himself ; and that the real business was in one language, the records in another, both foreign to the judge. Let that individual be the cleverest lawyer in England, the ablest judge on the bench, nay, the most qualified person in the whole world—can any one doubt for a moment what the state of the court, and all the transactions connected with it, would be ? Let the courts in which the two codes of law are administered be put upon an equal footing relative to the business performed in each, the public would soon see which

code was most consistent with common sense, and best calculated to promote justice and good government.

I have no intention, in these observations, of conveying any personal attack on the judges of the Supreme Court. It is the difference between the two systems to which I would attract the notice of my readers, in the hopes of inducing them to examine for themselves, and study the two codes of laws, and the effect which each has upon those employed in its administration. The judges of the Supreme Court have only all along acted according to the ideas with which they were imbued in their education. The study of the English law has the effect of warping the judgment and contracting the mind, to an extent almost incredible. There is, of course, no rule without an exception, and a few splendid instances of superior talent, rising above the rest, have thrown a lustre upon the profession; but, generally speaking, an English lawyer is almost incapable of taking a plain straightforward common-sense view of a subject, much less of viewing it with the comprehensive eye of a statesman*. He has been brought up to believe that the English law is the perfection of human wisdom, and in all his attempts at legislation he reverts to the ideas acquired by his legal studies, and moulds everything according to the intricacies to which long habit has reconciled him. Under such impressions, the course unceasingly pursued by the successive judges of the Supreme Court need be no matter of surprise. Almost any English lawyers would have done the same in their circumstances. Being convinced of the immense superiority of the English law over all others, they conceived that they were conferring a benefit upon the people by introducing it into India. The evils, and the inconveniences, and the ruinous expense which would be entailed on the people; the impossibility of one court being able to transact the whole legal business of a country as large as the half of Europe; all these were totally overlooked. To some of the judges, in all probability, they never

* This has often been remarked as the reason why so few lawyers distinguish themselves in Parliament, or in the administration. Doubtless, there have been some splendid exceptions; but some of these have been mere nominal lawyers, who paid little attention to their profession from the very beginning of their career.

occurred; and others would suppose them to be counterbalanced by the blessings which they conferred on the people by the introduction of English law. God grant that no such incubus may be inflicted on the people of India!—they have suffered enough at our hands already. Few of the uninitiated can conceive what English law really is: how little protection it affords to the innocent, or how much encouragement it holds out to those who prey upon society. In England, it is *public opinion*, and the high tone of morality which exists, that prevents the rich from oppressing the poor, and not the English laws. The latter would enable any rich man to ruin his poor neighbours whenever he pleased. I am happy, however, to perceive that the attention of the people of England has at length been roused. Some improvements have of late years been effected, and it is hoped that, notwithstanding the opposition of the two interested parties, we may shortly see the introduction of a judicious and moderate reform.

The scheme of introducing English law into India is just as unjust and impolitic as it would be to establish the Muhammedan or Hindoo law in England. The latter is just as much suited to the people of England as the former to the inhabitants of Hindostan. “The language of the English law, its studied intricacies and obscurities, which render it unintelligible to all Englishmen who have not devoted a great part of their lives to the study of it, render it, to the eye of the affrighted Indian, a black and portentous cloud, from which every terrific and destructive form might at each moment be expected to descend upon him.” “The system of English law is so incompatible with the habits, sentiments, and circumstances of the people, that if attempted to be forced upon even that part of the field of government which belonged to the administration of law, it would suffice to throw the country into the utmost disorder, would subvert almost every existing right, would fill the nation with terror and misery, and, being in such a situation incapable of answering the purposes of law, would leave the country in a state hardly different from that in which it would have been under a total absence of law.” (See Mill’s chapter, *ut supra*.) The natives of the provinces look on an English law-court with

as much dread and horror as the Inquisition would be regarded with in England. In the prospect of its establishment, "they see themselves surrounded with dangers of a terrible nature, from a new, mysterious source, the operations of which they are altogether unable to comprehend." The very appearance of an English bailiff, or even a person bearing a subpoena for witnesses, in the provinces, creates as great a sensation as that of an officer of the Inquisition would do in a country village in Spain. The respectable native inhabitants, particularly the bankers and merchants, shut themselves in their houses, and refuse communication almost with every one. This is literally true; and it is probable, on any further extension of the English law, the people will imitate the example of the landholders of Behar in former days, who "joined in a petition to the governor and council, praying for protection against the process of the Supreme Court, or, if that could not be granted, for leave to relinquish their farms, that they might retire into another country." Petitions to this effect have, to my own certain knowledge, been lately agitated in several towns in the interior.

It is fervently to be hoped that the English legislature will, ere long, set this matter at rest, and put a stop to the fears which are now entertained by the natives. Let them only take a rational and statesmanlike view of the question, there can be little fear or doubt which course will be pursued. The law established by the Company's government undoubtedly contains much that requires revision and amendment; but it is, in the main, founded on the right basis, of taking the customs and laws of the people for a ground-work, introducing modifications such as might be suggested by a more civilized and enlightened people. The inconsistencies and absurdities which may be found are attributable to inadvertence or ignorance, and not to a systematic plan to benefit lawyers and rogues*.

In addition to what has been above instanced, I will allude to two more cases, to show the grasping tendency of an English law-

* At the time this paper was written, the provision of the New Charter which makes the Supreme Court subject to the local government was not known in India—1835.

court. By the Act of Parliament, cap. 155, sec. 107, 53rd of George the Third, European-British subjects are made amenable to the local courts, in civil suits, to any amount. Yet, taking advantage of some obscure wording, the English lawyers declared that it was only intended that Englishmen should be sued by the natives, but not that one Englishman should implead another. In that case, resort must be had to the Supreme Court. The injustice and inconvenience to the parties concerned and the witnesses, and, above all, the absurdity of such a rule, seems never to have struck them. If a court were competent to decide a claim by a native against an Englishman, or the reverse, it must surely be so when both parties were Englishmen. Such, indeed, was the manifest intention of the act, but the loose wording of it afforded a handle which the English lawyers eagerly seized, in order to retain some portion of business in their own hands. The present Advocate-General has, to his credit, given an opinion lately on the other side, and suits between Englishmen may now be heard by the local courts.

The other point is this. Until within the last few years, the law stood as follows. If an English soldier murdered a sergeant or a corporal, he might be tried and punished by a court martial on the spot. If he murdered another person, that is, a comrade, or any other than a superior military officer, he and all the witnesses must be sent down, even a thousand miles, to Calcutta, that the case might be tried by the Supreme Court! As far as regards soldiers and camp-followers, this injustice and absurdity has been remedied. These classes of people, when quartered at places more than a hundred and twenty miles from Calcutta, may now be tried by a court martial for any crime; but it still remains with regard to other classes of Englishmen.

It may be urged in defence of the Supreme Court, that it did not *make* the laws which are thus attacked. True. But they have often extended them to a point which was never intended by the English legislature. On the other hand, have we to thank any one connected with the Supreme Court for any representations to the Home Authorities of any abuses or injustice under which the community laboured by the practice of that

court, of which the remedy would cause a decrease in the business of the court? If so, and any instance be pointed out, I will make the *amende honorable*. On the contrary, many of the judges have laboured unceasingly to persuade the Home Government to extend the authority and jurisdiction of the Supreme Court.

Innumerable instances may, however, be adduced, among the judges in the Company's courts, of evils occasioned by the practice there having been brought by themselves to the notice of Government, and many more, no doubt, would have occurred, but for the sensitiveness (to which I have before alluded) on the part of the Home Authorities to anything that implied error in their system.

It is to be hoped that some definitive enactments will be passed by the British legislature, in regard to the jurisdiction of the respective courts, before the colonization of the English settlers takes place, (for it is not probable that, if Englishmen are to have the *right* to come to India at their own pleasure, the restriction against their proceeding into the interior will long be continued.) If any number of English settle in the provinces, the whole country will be thrown into anarchy, to an extent which will threaten the virtual annihilation of the internal government, should the two codes of laws and the processes of both courts be in simultaneous operation. The only plan to avoid such a probability is, either to abolish the whole of the Company's courts, and to introduce, at once, courts of English law throughout the country; or to ordain that the settlers must submit, in every point, to the jurisdiction of the local authorities; while the Supreme Court should be confined to its proper jurisdiction, the town of Calcutta. No middle course will succeed. I could hardly conceive that any sane person, who knew anything of the country, could possibly recommend the former: and as to any complaint that the settlers might make, (for, doubtless, many would be made by all who might be brought within the clutches of the law, on which they would endeavour to throw the blame due to their own misconduct,) the answer is obvious. "You came to this country with your eyes open, for your own pleasure;

and with *the sole object of your own benefit*. The welfare, interests, and established institutions of a hundred millions, are not to be set at nought on your account."

The Supreme Court should be placed on the same footing with regard to the local courts that the latter stand upon with one another. The rule for deciding the jurisdiction of the court (after the limits of territory have been marked), is this. In criminal affairs, the prisoner is tried in the court of that district in which the crime was committed (in special cases, to prevent inconvenience to prosecutors and witnesses, a deviation is allowed). In civil suits for real property, the case must be heard in the court of that district in which the property is situated. In actions for debt or personal property, the plaintiff has his option to sue either in the court of that district in which the transaction which led to the suit took place, or, should it be in a different one, in that in which the defendant resides. All processes of the court in another district are issued through the court of the latter,—a plain, intelligible, rational mode of proceeding. With such a plan as this, no harm could happen from the existence of the two codes of law, each being restrained within its proper jurisdiction; and it would form an opportunity of judging of their comparative merits. Nay, I should not object to giving the Supreme Court, by way of compensation for their loss of dignity, in being placed on the same footing as *those of the Company*, concurrent jurisdiction with the Court of Sudder Dewanee and Nizamut Adalut*, in receiving appeals—(with the obvious proviso that they should be judged of by their merits, according to the Regulations of the provinces, and not by the standard of English law and practice,) provided the Court of Sudder Dewanee had, in return, equal power in receiving original suits arising within the town of Calcutta. The option, of course, to be on the part of the plaintiffs, as to which court they would prefer. Nay, I should be glad to see the experiment tried; because, were the Court of Sudder Dewanee once cleared of its arrears, and placed on an efficient footing as to its current

* The chief civil and criminal courts of the East India Company's administration.

business, with all its faults, and those of the Regulations to boot, I am convinced that everything I have advanced in this paper would be most fully substantiated; and that the infinite superiority of the Regulations of the British-Indian government over the mass of tortuous, inconsistent, undefined, and incomprehensible matter, dignified by the name of English law, would be demonstrated by the most incontrovertible proof.

September, 1833.

N. B. In addition to the chapter in Mill, above quoted, see the following documents:—Minutes by Sir C. Metcalf, April 15, 1829, and May 2, 1829; by Mr. Holt Mackenzie, of apparently the same date; by Mr. W. H. Macnaghten, April 9, 1829; by Mr. J. W. Hogg, May 17, 1829; by Mr. A. Ross, of apparently the same date; by Sir E. Ryan, October 2, 1829; by Lord William Bentinck, October 10, 1829; by Sir C. Grey, October 2, 1829; by Sir J. Franks, September 23, 1829; Letter from the Judges of the Supreme Court to the Governor-General in Council, September 13, 1830; Letter from the same to the Secretary of the Board of Control, October 16, 1830; and the Letter from the Governor-General in Council to the Judges of the Supreme Court, October 9, 1831,—in all which will be found a mine of valuable information.

No. XXV.

ON THE SYSTEM OF PURVEYANCE AND FORCED LABOUR.

THIS is one of the most crying evils in the country, and loudly calls for the early attention of those in authority. It is to be feared that few people have any idea of the extent to which it is carried, both for the service of Government and that of any individuals connected with it. In procuring supplies for camps; carriage for troops, or for the civil functionaries; provisions for the gaols; tools for the convicts; hire of workmen; either

for Government or private individuals; purchase of cattle and sheep for the food of the European soldiers; in short, in almost every possible way, is this baneful system in full operation, to the disgrace of the Government and its officers, and the intolerable oppression of the people. I propose to enter a little into detail on the different heads alluded to; and although I fully anticipate that much of what I shall advance will be denied or explained away, I would confidently refer those who really wish to discover the truth to the two classes who are the sufferers by such a system,—the English merchants and the people.

The subject seems naturally to divide itself into two heads,—purveyance and forced labour for the service of Government, and that for the benefit of private individuals.

The mode of procuring carriage for troops, or the civil functionaries, or, indeed, any one in the service of Government, is the following. Application is made to the collector of the district, who issues an order to his native officers to procure what is required, specifying the number of carts, pack-horses, camels, &c. The order is gladly hailed by those to whom it is addressed, as an opportunity for realizing a golden harvest: men are sent out in every direction, to seize, indiscriminately, every article of carriage they can lay their hands upon. carts, camels, pack-horses, and bullocks, with their owners or drivers, are brought in by scores or even hundreds, and driven to the *tuhseeldarrie* (native revenue officers' residence,) or police-office, and are there detained for one or more days, without any pay. Then comes the harvest for those employed in collecting them, all who can pay a *douceur* are released, and allowed to go home; while those who are too poor to do so, are sent to the collector, to be made over to the party for whom the carriage is required. Nor is this all. Carts and other carriages, from a distant place, which may chance to be passing by, laden with merchants' goods, are seized equally with those whose owners reside near the spot; the goods often thrown out on the road, and the carriage driven off to the "*counting-house*," unless the merchant or his agent will pay a considerable sum to purchase immunity, and be allowed to proceed on his way. Many a merchant of my acquaintance has

before now, more than once, had his bags of indigo-seed, (which he was under an engagement to deliver by a certain time under a penalty if not fulfilled,) thrown on the road, and the carts on which it was laden carried off by the collector's myrmidons; and I have even known respectable native travellers in byllies (riding-carts) treated in the same way. This is the mode of collecting carriage in the first instance. But it is only a part of the oppression: the owners of the carts, &c., who, from being unable to pay a *douceur*, are destined for the service required, are often detained several days before they proceed on the march; during all which time they are not allowed any pay, and consequently they and their cattle are half-starved; which is one cause of the almost invariable complaints of the inefficiency of the carriage which is furnished on these forced requisitions.

The supply of sheep for the food of the European troops is obtained in the same way. The commissariat officer writes to the magistrate, requiring orders to the police to assist his people in procuring sheep. Written orders are accordingly sent to the commissariat officer, leaving it to his discretion to use them as he pleases. In some, the price at which the sheep are to be furnished is mentioned, but the sum is always at the option of the commissariat officer to fix, which is usually at ten rupees per score. These written orders are by him delivered to some cantonment butcher, with whom he has made a contract, together with half-a-dozen or more badges*,—such as are worn by the Government runners (called in Hindostanee, *peons*,)—attached to the commissariat. The butcher gives the badges to his own servants, and, with the magistrate's order for their credentials, sends them out to collect sheep, or, in other words, to plunder the country, and ill-treat the people. Their first step is to seize indiscriminately all flocks of sheep they can find, and in particular to select the breeding ewes, which they threaten to carry off, in order to extort money for the release of the sheep, which is done when the owners will pay a proper *douceur*. Those who cannot, or will

* These are brass plates worn, affixed to a shoulder-belt, by all constables, inferior revenue-officers, court-runners, commissariat-officers, and others in the Government employ. The name of the office to which they belong is engraved on the respective badges.

not bribe these people, are deprived of their sheep, for which they receive generally about seven rupees per score, the remaining three (ten rupees being allowed by the commissariat) being the perquisite of the butcher, whose profits, at a station like Meerut, or Cawnpore, must be very handsome; for his emissaries, in consideration of their gains by extortion, are content to serve on very low wages*.

The supplies of food and tools for the use of the convicts in the different gaols are all procured on the same plan. The discipline in most of the gaols is so lax, that not only the convicts, but their guards, ill-treat the bunneas (huxters) who supply the articles of food, in the most shameful manner; while the superior officers of the gaols are not allowed to exercise a proper and efficient control over these people to enable them to prevent it. The food is taken from the shopkeepers at pleasure, while they are often kept waiting for months before they receive payment, and sometimes never receive it at all, while complaints are for the most part useless. Parties of convicts are occasionally stationed for some public work at a distance from the gaol, which requires that they should from time to time be moved to different places as the work proceeds. For this purpose carts and porters are seized from the neighbouring villages to carry the tents or sheds, tools, &c., all of whom are obliged to serve free of expense. Nay, you may often see many of the guards, or even some of the convicts, whose friends can pay the guards to induce them to allow such indulgences, riding in the carts at their ease, which of course requires a greater additional number of carts to be pressed into the service than would be necessary for the transfer of the tents and tools alone. The repair of the tools is (as far as regards Government) on the same economical plan; a small portion of iron and charcoal is brought, and a workman or two hired, which is charged for in the contingent bill; but this not being nearly as much as is required, the rest is made up by forced labour. The neighbouring carpenters and blacksmiths are forced to serve a

* The situation is, indeed, one in considerable request: I have even heard it said that considerable douceurs are occasionally given to these butchers for employment in their *police*.

few days each in rotation without receiving any pay ; which hardship, of course, only falls on the poorest, the better sort of workmen being generally able to fee the gaol-officers for the privilege of exemption. To procure wood for the handles of tools, &c., trees are cut down at the pleasure of the police-officers, without any remuneration being made to their owners ; but in this last case, there is a semblance of keeping up appearances which is worthy of notice. In the wording of the order, the police are desired to search for any "*unclaimed trees*," to cut them down, and send them in for the manufacture of the gaol tools. "*Unclaimed trees !*" In parts of the country which have been fully inhabited and cultivated, and in which every foot of land has had an owner for the last two centuries ! However, it is a fine thing for the police, who levy money on all who are willing to pay for the preservation of their trees, and cut down those which belong to such as are too poor ; who, as well as the poor labourers who are compelled to carry them into the gaol, never receive one farthing. This farce is not kept up in the cases before-mentioned, because even the most ignorant magistrate or collector cannot suppose that there are any "*unclaimed*" carts, ponies, bullocks, shopkeepers, and workmen, who have nothing to do but to serve Government gratis.

In the police-department, matters are upon the same footing. Stolen property, wounded men, sick or infirm witnesses, dead bodies, all are sent to the magistrate, by carts, porters, or bearers, seized for the occasion, who are forced to serve for the public good. These people are consequently relieved from village to village, in which a delay of several hours often takes place ; as those who are subject to such oppressions, as soon as they perceive the approach of the *cortège*, accompanied by a police-officer, run and hide themselves. You may sometimes see half a village scampering over the fields, pursued by one or more police-officers, in full hue and cry ; and the matter often ends in some poor old women being pressed for the service, who could not run fast enough to escape. Oh, that we had a Cruickshank to illustrate this and other scenes consequent on the purveyance system of the British Indian government ! Occasionally you may

see a sick witness, a wounded man, or the body of a man who has been killed in an affray, lying on a bedstead* (which, without being paid for, has been taken from some one to carry the body, and will never be returned,) by the road-side, surrounded by a body-guard of crows and vultures. The accompanying police-officer has remained behind to smoke his hookah, after ordering the bearers to proceed; and these, after advancing a little way, finding themselves unguarded, had deposited their burden and decamped. The body and its accompaniments serve (like the yellow flag on a ship with the plague on board) to warn all within sight to abscond; so that when the police-officer arrives on the spot, he will be detained some hours before he can collect some more old women to proceed with the charge, and away he starts, with one hand holding his nose, afraid again to lose sight of the body till it is safely deposited at the next police-station. Under this mode of proceeding, a body which, by the proper arrangement of taking fresh bearers from stage to stage, who should be paid for their labour, might easily be conveyed to the magistrate from a distance of forty or fifty miles in one night, is often three or four days in reaching the office; and is then sent to the civil surgeon for examination in such a state of putrefaction that no one feature or cause of death is discernible.

Treasure from the subordinate revenue-officers is forwarded to the collector's office in the same mode; those employed in carrying it never receive their full hire,—often none at all. Still greater oppression is practised in the transport of treasure from one district to another. The seizure of the carts and bullocks in the first instance is upon the plan already adverted to; but there seems to be greater delay in the despatch in these cases than in any other: often may be seen the carriages standing either at the police-station, or the collector's office, for days before they proceed on their journey: the reason I never could understand; for it would appear very simple, not to collect the carriages until the treasure was ready for despatch. This is not all. The treasure

* The common Indian bedsteads are so light, that one man can easily carry the bedstead and bedding together. My readers will call to mind the pas-

sage in Scripture where our Saviour says to the sick man, "Arise, take up thy bed and walk."

is generally conveyed in the Government tumbrils; the bullocks and drivers only are required, and they are sent on the service; while the carts are left standing either in the road, or perhaps in the enclosure of the collector's office, liable to be pilfered of great part of their small timbers and ropes. If a little care were taken to hire cattle and men of the place whence the treasure is to be despatched, it would be no hardship, as the carts would remain at the owners' homes: but, by the operation of the purveyance system, it often happens that carts which have just arrived from fifteen or twenty days journeys' distance, are seized, and they, the cattle and owners or drivers, treated as above described. To crown the whole, the cattle and their drivers rarely are paid for more than those days on which they are transporting the treasure. For the previous detention and the return, they seldom receive any remuneration. In some instances the collector is afraid to charge a sufficient amount in his contingent bill; he knows the commissioner will object to it, and, therefore, like the police-officers when repairing their stations, he manages in the best way he can: in others the pay is subject to some deductions in passing through the hands of the subordinates of the office.

The building and repair of the police station-houses is another point to be noticed. The system on which this was conducted was formerly as follows. The magistrate used to address the Superior Court, soliciting a sum for this purpose. On the disbursement being granted, the amount was usually sent to the head police-officer, (*thanadar*,) with directions to build or repair his station-house. The sum was usually not above from one-fourth to one-tenth of what was requisite. This was occasionally represented to the magistrate, in reply to which the police-officer was told he must manage as well as he could. What was to be done? The station-house must be built or repaired: and the only way was to pursue the purveyance system; and in this business I do the police the justice to say, that, generally, they contrived to execute it with as little oppression as possible. The landholders who could best afford it were required to furnish grass, bamboo, and other materials, gratis, while the small sum of money received, was employed in paying the labourers as far as

it would go, *i. e.*, in giving them from a half to an eighth of what they ought to receive, according to circumstances and the number employed.

A few years ago Government changed this plan ; and in most districts sanctioned a monthly charge in the salary-bill for the purpose of keeping the police station-houses in regular repair. This plan was good in its principle ; but its application was marred by the old bane of everything connected with the British Indian government, miserable parsimony, and the absence of any proper arrangement for carrying into effect what was required. In the first place, the sum was not nearly sufficient on the whole, though it might be in some isolated instance. Three, four, or I believe even five rupees a month were occasionally granted for a kotwallee (large head-quarter police-station), in a town ; one rupee and a half,—one rupee, or even only twelve annas, for a thannah (common station-house), while for the subordinate guard-houses (chokies), rarely was any allowance made*.

Now, the establishment of the smallest thannah consists of a thanadar, (answering to police-serjeant according to the new London police-establishment,) writer, and eight burkundazes (constables). Accommodation for these must be provided, together with an apartment for an office ; one for the confinement of prisoners, and a small one (which should have a flat mud roof under the thatch as a security against fire, which is effectual), for the preservation of the records of the police-station. Allowing that the building were properly erected in the first instance, which it rarely or ever is, let any one who has had experience in building the cheapest description of mud-wall huts, with thatched roofs, for his servants, calculate whether a building containing the above accommodation could possibly be kept in efficient repair for twelve annas† a month.

But even this allowance, from mismanagement, does not go so far as it might. The general plan has been to send it monthly, with the pay of the police-station. By some of the police-officers,

* In round numbers, one rupee is equivalent to two shillings. Sixteen annas make a rupee ; consequently an anna is rather less than twopence.

† Eighteenpence.

it is considered a sort of perquisite ; and by those who do apply it to its proper purpose, the money is wasted without any good effect, as soon as it is received ; for a building of the above description does not require petty repairs every month : if well erected at first, it would probably last for a couple of years or more, at the end of which a sum of forty or fifty rupees would be necessary to new thatch and plaster it. Had the whole amount been allowed to accumulate, eighteen rupees only would have been available. Some few magistrates have adopted the plan of keeping the monthly allowance in the hands of the treasurer, and disbursing such sums from time to time as are most needed for the repair of the thannahs ; but being unable from the pressure of other duties to superintend the work themselves, and having no qualified person whom they can depute to inspect the repairs for buildings, little advantage accrues from this practice : besides which, as the sum authorised for the purpose is, as before observed, inadequate to meet the expense, a portion of it is made up by the purveyance for materials. To such a pitch is this system carried, that in some instances the house of a respectable native is actually without any remuneration appropriated as a police-station*.

The allowance granted to the police-officers for stationery is, in rare instances, sufficient for the purpose, and here again the deficiency must be made up by purveyance at free cost ; for it can hardly be supposed that they will pay for these articles out of their own pockets.

In providing for camps, the same extortions and oppressions are

* Is it any wonder that the police should practise extortions on their own account, when they are daily obliged to do so for the benefit of Government ? Or that they should be unable to perceive the criminality in the one case, which does not attach to the other ? With what feelings must a magistrate punish a police-officer for taking a little firewood and food for himself, without paying for them, to whom he has just issued an order to seize, without giving

any remuneration to the owners, materials to the value of a hundred rupees to build a Government police-office ? For what other meaning can be attached to these directions :—"The office must be built, no allowance can be granted ; you must manage as well as you can." The situation of collector and magistrate, in the present day, must, indeed, be heart-sickening to all whose good feelings are not completely blunted.

practised. The first step is for the commanding officer of a corps, the commissioner, or other great man in authority, to write to the collector, or magistrate, requiring supplies for a camp, containing so many individuals and cattle, at certain stages on certain dates. Orders are accordingly issued by the latter to his subordinates, who are not slow in carrying them into execution. They immediately collect all the neighbouring shopkeepers, and inform them they must attend the expected camp. Those who can pay, are promised an exemption from the *penalty* (for such it is with good reason considered), whilst the poorest, as usual, suffer. These are then ordered to procure the required quantity of food; and in order to ensure its supply, they are often prohibited from selling anything in the mean time. Nay, when a very large camp, like that of the Governor-General or Commander-in-Chief, is expected, this embargo is sometimes laid upon all the shopkeepers for several miles round. The next point is to collect firewood, forage for the cattle, earthen pots, and other items, of which a much larger quantity is usually procured than will be consumed, the surplus, after the camp has passed, being the perquisite of the *tuhseeldar**, or police-officer. These people defend themselves, if questioned, on the plea that a considerable portion of what is supplied will remain unpaid for by the troops, servants, and camp-followers, the loss of which they cannot be expected to bear; and that the owners never come to claim what may remain unsold, or rarely even to receive the money which has been realized by the consumption of the camp. The plea, I am sorry to say, is too true. On the first point I shall speak presently; and here, the revenue or police-officer is not to blame. But, on the second, the fault must be shared between him and the Government. The different items are not paid for in the first instance on their being deposited for the use of the camp, the native civil officers having no funds for this purpose†, and the hopelessness of obtaining what is due,

* Subordinate native revenue-officer. | will partly cure the evil; but if a proper system were introduced, there

† Within these few months, orders | would be little or no necessity for an
have been issued to the collectors, | advance of money.
allowing an advance to be made; this

or even receiving back the surplus, which repeated experience has shown, is quite sufficient to deter any applications to that effect.

One point respecting the march of camps deserves consideration; for it is one on which a little arrangement would prevent much loss and annoyance to the people: I mean the marking out at each stage, a piece of ground, sufficient to encamp a regiment, and keeping it exclusively for the convenience of travellers.

The want of this is a very great source of oppression to the people. This is not so much felt in the movement of large camps, because in those cases people are sent on the day before, who have time to select a proper spot, and mark out the site of the camp; and as they have daylight before them, there is no excuse for their injuring crops more than is unavoidable, and for this there is a provision for compensation: but in the movement of small detachments and individual officers, both civil and military, it is that the evil is felt. In these cases, those who proceed to mark out the ground depart in the evening, and consequently reach their destined stage during the night. Although there may be plenty of spare ground about the place, the servants take little trouble in searching for it, but pitch the tents at the first place they come to; and when their master arrives in the morning, he does not like the trouble and annoyance of waiting and moving his camp; besides, the mischief has been done. I could mention a place, near which I once resided, where, in the course of only two months, the crops were destroyed in no less than five places by as many different camps, although there was plenty of waste ground in the neighbourhood. The plan above suggested would prevent all this; and as it would be publicly known, people would direct their servants to inquire for the proper place, particularly if they were declared liable to make good any damage wantonly caused by negligence and inattention on the part of these. This would hardly be necessary in all the by-tracts; but at the stages upon the high roads, on which on the average, an English camp passes about once a week during the cold season, to say nothing of those of the natives, it would be highly desirable; and, by degrees, trees might be planted on the respective spots, provided a plan could be devised for pre-

venting the camp-followers from cutting them down, which would be a great convenience to travellers*.

The procuring of workmen for the public works by the barrack-master and executive engineer department, and bearers for dâk travellers† by those in charge of the provincial post-offices, is, I am sorry to say, often carried on in the same manner. Requisitions to the magistrates and collectors are frequently made by these officers; and of course the contingent evils follow the adoption of the system.

Such being the general plan on which the service of Government is carried on, it is no matter of surprise that individuals in authority should resort to the same, for the convenience of themselves or their friends. In some districts, it is the almost universal practice for the English gentlemen, both civil and military, to make use of the police in procuring workmen and supplies of almost every kind; indeed, the popularity of a magistrate among his English neighbours depends, in a great measure, on the extent to which he allows the practice to be carried. In the one case, he obtains the character of “a very good magistrate,”—“a very obliging man;” while, on the other hand, if he obey the orders of Government, and prohibit his police from giving their assistance in such matters, telling those who apply to him the plain truth, that, provided they will pay a proper price, they will find no difficulty in obtaining what they want, he is at once stigmatized as “inefficient” and “disobliging.” Some magistrates, to their shame be it spoken, though fully aware of the system, aim at popularity by continuing the practice; and others are obliged to pursue it, contrary to their better feelings and sense of right, from the fear of acquiring a character for “inefficiency,”

* These spots should be as near to the village as possible. There would be less difficulty in procuring supplies; when a camp is, as is sometimes the case, pitched a mile from the bazar, the distance alone disinclines the shopkeepers to attend. It is probable that if these spots were well selected, shops would soon be established on the edge, thus giving almost the convenience of a serai. On the by-roads a spot large

enough for a troop or company might be marked off.

† Travelling by dâk is journeying in a palkee, (Anglice, palanquin,) while relays of bearers are posted at every stage. There is not sufficient travelling to induce men to live at the different stages to be hired as bearers; they are collected when required by the post-masters, to whom previous notice must be given.

which should reach head-quarters, and operate to their disadvantage. Some years ago, when the common price of lambs in Bundelcund was eight annas each, a magistrate issued an order that they were to be furnished to the English gentlemen at five annas. I cannot say how it is at the present day, but not very long since, it used to be the regular practice in Rohilcund, Meerut, Suharunpoor, and parts of the Delhi districts, whenever shooting-parties went out into the jungles, to procure an order from the magistrate to the police on the borders to send out a certain number of bunneas (hucksters) to supply the camp, which they were obliged to do at the same rate as the price of the articles at the places whence they came, without any allowance being made for their expenses in hiring carriage to transport their grain, &c., from place to place. Nay, in some of these districts, it was a standing order to the police to send out the shopkeepers whenever they were required to do so by any English gentlemen, to supply their camp. Of course, every requisition for bearers, porters, or other carriage is, in places where such a system exists, attended to and enforced by the police officers, as a matter of course; as they naturally conceive it to be equally the pleasure of the magistrate that it should be.

The petty oppressions and extortions of the English gentlemen and their guards, servants, and followers, are almost endless. We hear a great deal about the "standing joke" of an Oude aumil (governor of a province), in driving his elephant through the standing corn, and cutting down a grove of plantains for the animal's forage. Well might the aumil say, "Look at home." What is to be said of the "*standing joke*" of an English gentleman, who forces twenty or thirty villagers to tread down their own corn for the benefit of his quail-shooting? Such practices are of daily occurrence among those who are fond of this sport; and it is no less common among the servants of English gentlemen to cut off the branches of fruit-trees in full bearing, at the entrance of a village, for forage for their masters' cattle; to say nothing of pilfering corn, breaking down fences for fire-wood, seizure of respectable inhabitants for the purpose of making them carry loads, seizure of carriage to make up for what has been

disabled by over-loading, and non-payment to the shopkeepers for articles of food, all which are equally common. I grant that, in many cases, these abuses are practised by the servants without the sanction of their masters; but I blush for my countrymen, when I am obliged to assert, that too frequently they are perpetrated with their knowledge, and by their orders. I heard an officer, who had for some years been stationed at Hazareebaugh*, declare that he had frequently known English gentlemen march the whole way from Calcutta without paying for a single article of supply they had received, except in the immediate neighbourhood of that station, and the intermediate one of Bancoorah, because at these places they feared complaints might be lodged; and that the numerous well-grounded complaints of this sort of conduct were quite astonishing. In general, the servants avoid coming into contact with an Englishman, but we may imagine to what a height long impunity must have induced them to carry their insolence, from the circumstance of some camel-drivers actually going to the walled enclosure, which surrounded an English indigo-planter's house, and beginning to cut down the branches of the trees in his garden, though the owner was at the same time at home. The seizure of carriage and porters is so notorious that little need be said; but occasionally it is carried to almost an incredible height. I have known a respectable Rajpoot landholder, one of the heads of a village of considerable size, to be seized, and forced to carry a load to the next stage. When this was told to me, I turned to the police-officer and asked if it were true, and how he could allow it? He assented to the truth, and declared that he could not help it, having no sufficient authority to prevent such practices. Nay, that not unfrequently, he was threatened by the English gentleman in person with *a beating*, unless he furnished what was required.

It is probable that many of my readers, particularly those resident at Calcutta, will imagine that all this must be exaggeration; or, at least, that it alludes to the country during a period of warfare, when armies are moving in every direction, at which

* A place on the new road, about half-way between Calcutta and Benares.

times considerable oppression and ill-treatment of the people is unfortunately unavoidable. No such thing! I am describing the ordinary transactions of the Government, the common mode of procuring what is requisite for the public service, and the practices adopted by individuals in authority for their private benefit or convenience; and this too at a season of profound peace, when no emergency of any kind exists*. If this be doubted, let the records of the offices of the different commissioners, magistrates, and collectors, and those of their native subordinates, be searched. Had I authority for so doing, I would engage to produce *written orders, bearing the official seal and signature of the respective functionaries* sufficient to support every statement I have above made! As to the behaviour of individuals and their servants, let those be asked who suffer from it,—the English merchants, and the natives at large. But, indeed, too many of the Government servants, both civil and military, would, if encouraged to declare their sentiments freely, testify to the truth of every item.

I would here make an observation as to the classes by whom the oppressions and extortions above described are chiefly committed, in order to do justice to those who have hitherto borne much unmerited obloquy on the subject under discussion, namely, the military. Almost every civil functionary in India has a collection of stories regarding the “oppressions of the military,” in their marches through the country. Let them, however, “cast first the beam out of their own eye.” *In proportion to their numbers*, infinitely less injury is caused to the country and inhabitants by the march of a native regiment, than by any others connected with the Government. Small detachments, particularly where no English officer is present, are worse; the discipline in the latter is not so efficient as in a whole regiment; but, after all, a military camp of native troops is much less dreaded than those of European troops, or of the civilians, or of individual king’s officers; and the higher the rank of these two

* The procuring of carriage for troops or individuals is done according to law:—See Reg. XI. of 1806. It is to our disgrace that such a law should be necessary in time of peace.

latter classes, the worse are the oppressions and extortions which are committed by their servants and followers. The camp of a Governor-General, or a Commander-in-Chief, is worse than all.

Having said so much on the existing evils of "purveyance and forced labour," it is time to endeavour to devise a remedy; but unfortunately there are some obstacles of no slight magnitude in the way of so desirable a consummation. I fancy I hear an exclamation, "the system need only to be brought to the notice of Government, to be at once put a stop to." It will not be found quite so easy a matter to cure so inveterate an evil of such long standing. Government are not ignorant of the state of things on the subject. To my knowledge, it has been, ere now, officially brought to notice*, to say nothing of private communications to the members of Government, and repeated statements in the public prints. Besides, who are the members of Government? Are those who for the last thirty years have filled the situations of counsellors and secretaries, men dropped from the clouds? Or newly imported from England for those particular offices? Or even are they men who have spent all their Indian career at Calcutta? Many of them have passed the best part of their lives in India, during which time they have been employed as assistants, registrars, collectors, judges of circuit, commissioners, and judges of the chief court, and must have had ample opportunity for becoming acquainted with the existing state of things. If they were ignorant of it, they would be very unfit for the high situations to which they have been called; and, indeed, it is impossible that men who could know so little about the country, as an ignorance of these abuses would imply, could ever have risen to such honourable and exalted stations. The different regulations and orders of Government, at various times, sufficiently prove, not only that they are aware of the evil, but that they are anxious to put a stop to it. But the attempts that have hitherto been made, have

* I have seen an official communication to Government, at which it was stated that the oppressions of the English travellers and their servants had caused the entire desertion of more than one village. The only notice taken of it, however, was an intimation to the magistrate that Government were glad to hear that he had attempted to prevent such abuses in future!

been counteracted by the bane of everything connected with Indian legislation,—the want of a sufficient executive establishment to administer the laws. Little or nothing has yet been done in the way of improvement; a mere order is little better than waste paper, unless it be accompanied by the means of enforcing it; and, moreover, unless some proper arrangement be made, and some method devised, to check the compulsory mode of proceeding hitherto in force. Nor even then will the benefit be fully experienced at first; some time must necessarily elapse, before the new plan can be fairly brought into operation.

Still the case is not desperate, and a remedy ought to be, and must be, ere long, attempted. The foundation on which all will depend, is well expressed in an answer given by an acquaintance of mine to a great man at Lucknow, who offered to procure him a royal order, to enable him to obtain supplies on his march through the country:—"I am much obliged to you, but I have what is much better,—namely, a head-servant, who has a civil tongue in his head, and money in his hand; besides which, I am ready to listen instantly to any complaint against my followers; and, if proved, to punish them on the spot; the knowledge of which, gained from experience, prevents their committing depredations." Here is the secret. Abolish compulsory service; ensure fair payment for articles furnished, or work performed, allowing those concerned the option of working and selling their goods, or not; prevent those employed from being ill-treated; and make some provision for the *immediate punishment* of any infraction of these rules. If such regulations as these were once fairly brought into practice, there would speedily be an end of all complaints on the score of "purveyance and forced labour," and all parties would find their advantage from it in the end; for it being, of course, the interest of the people to sell their goods, and give their labour, upon being properly recompensed for the same, the markets would be well and regularly supplied; competition would bring the price to its proper level; and all the delay, inconvenience, and annoyance, so often attendant on moving in this country, would be soon removed. Some I know assert that it is impossible to manage without the system described, and that

the native will not serve an Englishman unless he is compelled to it. But what does this assertion prove? To the disgrace of those connected with Government (for they alone experience this difficulty in procuring supplies for their camps, carriage, and workmen,) repeated experience of ill-treatment and non-payment, which alone could influence such conduct in those whose interest it would be to pursue such a totally opposite course. A native or an English merchant never finds any obstacle in obtaining what he requires, but the moment anything is wanted for the servants of Government, all keep aloof*.

Still some deny it; and in their zeal to prove its untruth, rush from Scylla to Charybdis. I have actually heard many declare that, in spite of good treatment and good pay, general dislike of the English induced the natives to avoid them! They must be hard pushed for a reason; for, if this be true, what does it amount to in plain English? That, either by their general political system, or individual and personal conduct, the English have contrived to make themselves so obnoxious to the people of India, that, although high pay and security from ill-treatment is offered in this instance, even poor artisans and labourers, whose sole livelihood is their daily labour, and petty shopkeepers, will forego their wages and profit rather than have any dealings with the English! But arguments are useless on such assertions; three words are sufficient:—*they are nonsense*. A native or an English merchant experiences no difficulty in obtaining what he requires†, but those alone who are connected with the government. Many facts might be adduced to prove this, and testify that when unofficial persons are concerned, the supply invariably adapts itself to the demand. Consider the occasional and periodical meeting of natives at fairs, sometimes to the amount of some hundred thousands; these are supplied without difficulty. The

* Now when it is known that a large English camp is about to march, the people, for miles round, dismantle their carts by taking off the wheels and upper works, bury the axletrees; and, if there be any jungle within reach, drive their cattle there for concealment.

† Any Englishman in authority, after residing some time at the same place, and taking a little pains to establish his character, by paying the people, and not ill-treating them, never finds any difficulty in procuring what he wants.

mere temptation of the expected profit is sufficient to induce shopkeepers of every description, from miles round, to attend and transport their goods. How do native travellers, at all times and seasons, contrive to procure supplies at the different stages of their journey? In 1820, the season of the grand twelfth year Hurdwar fair, when probably two or three hundred thousand were assembled; in the space of three or four days, not less than from ten to twelve thousand people, residents of Delhi alone, set off for the fair, to say nothing of many thousands from Jyepoor, Marwar, and other places in that direction, and in the neighbourhood of Delhi, all of whom were about the same time travelling the same road. From Furruckabad, Khanpoor, Allahabad, Benares, and other places in that direction, many thousands were about the same time journeying through the upper part of the Doab towards the fair. The same took place through Rohilcund; from the Punjab through Saharunpoor; and from Hansi and Hissar through Paniput, occasioning daily, at every stage, as they approached Hurdwar, a greater demand for supplies than were ever caused by the largest English camp ever known, with one or two exceptions.

The same thing occurs, to a greater or less degree, at the periodical fairs at Allahabad, Benares, Hajepoor, Juggernaut, and, indeed, all over the country. None of these innumerable crowds experience any difficulty in procuring whatever they require, either carriage, or food, even to milk, earthen pots, or fire-wood, without any arrangement whatever being made for that purpose by the public functionaries. Yet a small detachment of English troops,—one wing of a regiment, or even a single troop, or company, or the camp of a commissioner of a district, cannot leave the most populous city in the country without requisitions to the collectors and magistrates, and the consequent abuses above described, to enable them to obtain the small portion of carriage they require, and supplies of food on the march, through the most populous part of the country! Can any other reason be given for this difference, but this,—that unofficial native travellers are willing to pay a fair rate of hire for their carriage, and a fair price for what they buy, and that

they refrain from abusing or ill-treating those who serve them? Let the official English adopt the same plan. Trust me, they will find, notwithstanding the dislike with which we are regarded, that self-interest would induce the poorer classes and shopkeepers, who subsist by their daily labour and the sale of their goods, very readily to come forward and deal with them.

Such, however, is the dread at present entertained by these classes of the English, and their servants and followers, that a violent remedy is out of the question. An evil of so many years' standing is not to be cured in a day, and should Government now issue an order, and continue to enforce it, prohibiting the assistance, direct or indirect, of the civil functionaries in procuring carriage, &c., and directing that all individuals should be required to make their own bargain, it is probable that at the next relief scarcely a single regiment would be able to move. I will therefore endeavour in detail to suggest some arrangements which should produce the desired effect, some of which are, indeed, sufficiently obvious. First, the mode of procuring carriage for the march of troops, and others who may require it. The best way will be to appoint at each station, and gradually at every town and large village in the country, a headman (in the language of the country, a *choudry*) for every description of carriage; one for carts, for camels, pack-horses, bearers, and porters. This person to be one of the most respectable of the owners of the three former, and one of each of the two latter classes. He must not be allowed any authority to *seize*, or any establishment of *chiprassies**, or even badges of authority of any description, but must be instructed that he is to provide what is required by free will and fair bargain. He should be obliged to make a list of all the owners of cattle, carts, &c., of the bearers and porters in his neighbourhood, and should be ordered to explain to these people that a new system was now to be adopted, and that if they would willingly take hire, any instance of ill-treatment or non-payment should be immediately attended to. He would be the person to whom any one requiring carriage should apply; and if he neglected to furnish it, without sufficient reason, he

* A sort of constable.

should be punished by a fine, slight or heavy, or by being discharged from his situation, according to circumstances. It would be necessary, on the other hand, to ensure a proper remuneration to those who should be hired through his means, and prompt attention to any complaint made by the choudry of ill-usage or non-payment of hire. Of course, a fixed rate of hire by the day, for those engaged to march with camps, and by the trip, for those sent by themselves with a load to a neighbouring station, must be arranged by the collector, or magistrate, and altered from time to time, as circumstances might show the expediency; in particular at times of great and sudden demand for carriage, occasioned by the march of large bodies of troops, by the concourse to a fair, or other cause. The English have for some time fixed a rate of payment which is sufficient under ordinary circumstances, but not so on the occasion of a large demand. It is but consonant to reason and justice that at such times the carters, bearers, &c, should reap the benefit of this extra demand, particularly as at other times, from there being few travellers, they are obliged to engage themselves for less than what is considered the established rate. But the misfortune is, that the English, at all times and seasons, insist upon being supplied with carriage at the usual rate, a system which is found expedient in large towns, where the demand for it is confined within the localities of those places, (for instance, the hackney-coach fares in London, —the ticka or hackney palanquins in Calcutta,) but is not quite applicable to journeys of many days' and even weeks' duration in the country. On the whole, however, the variation in the rate of hire would not occur often, or be very great; still the provision for its being so arranged should be made. The choudry should be directed, in every instance, himself to wait on the person requiring the carriage, to make over to him the required number of carts, bearers, &c. with a statement in writing of the number and the rate of hire, either for the trip, if to be sent by themselves, or by the day, so much for marching, so much for every halting day. (The marches to be taken according to "Patton's routes and stages:") the pay to commence from the day the people are called from their homes. It would also be expedient to regulate

the average weight with which every description of carriage should be loaded, which would prevent many disputes and much ill-treatment. On the other hand, the choudry should be responsible for the behaviour of the people furnished by him, in case of, without sufficient reason, their running away, or behaving ill on the road; at least, so far as to be obliged to produce them, on requisition by the magistrate, to whom a complaint had been made, or to refund the amount of hire they had received, in addition to a slight fine. In most cases, the people would be residents of his own neighbourhood, so that he would have no difficulty in doing this; when the carriage was discharged, on the camp having reached its destination, the person to whom it had been furnished should be required to give to each carter, pack-horse owner, bearer, or set of bearers, &c., a certificate, not in general terms, that he paid the proper rate, but stating particularly the name of each, and the sum paid to him, under which should be the signature or mark of the person concerned.

This may, perhaps, appear needless, but I have seen enough to prove that it is not. I could mention many an instance in which complaints were made of non-payment of hire. If it were against an officer, the magistrate wrote to the commanding officer, who called on the other for an explanation. The officer, in reply, merely stated, in general terms, that he had paid "the fair rate;" and this was forwarded to the magistrate by the commanding officer, with an observation that he considered it "quite satisfactory." And there the matter rests, redress being out of the question, unless a complaint were made to Government. But the fact is, magistrates do not like to trouble Government in petty matters of this sort: and, indeed, if every instance of this species of oppression which could not be redressed, were laid before Government, nearly the whole time of the latter would be occupied in attending to them. But petty as each individual case may be, the aggregate amount of evil is immense. The same precaution would be necessary in the case of civilians, especially those of high rank, (indeed, the higher the rank, the more necessary,) for these gentlemen consider it beneath their dignity to attend to such matters, and leave it to their servants,

by whom the poor people are fleeced and ill-used to a shameful degree. I have more than once witnessed a complaint being made to one of these grandees, against the behaviour of their servants, to which the reply has been, "I cannot be troubled, my headman settles all these matters." And it would be particularly necessary in the case of King's officers, who were newly arrived in the country; in illustration of which I will mention an amusing instance. An application was made by a King's general on his march, to a magistrate, for some bearers. They were accordingly procured, and brought to the general by the magistrate himself, with a statement of the rate of hire, and a request as a favour, that, on their being discharged, the general would, in person, see them paid. This the officer promised, but evidently in a very indignant and reluctant manner, assuring the magistrate that he had a very excellent khansamah, (house steward,) against whom he had not received any complaints. Now this general had only just arrived, for the first time in his life, in India; could not speak a word of Hindostanee, and had no one about him who spoke English, except this very identical steward, who was his fac-totum. He would, indeed, have been a rare specimen of that class of servants, had he stood forth as interpreter to prefer complaints against himself. The general forgot this, or more probably it never struck him. But his vanity was mortified at the suspicion that it was possible any one of his establishment of servants should be guilty of ill conduct; (a sentiment, however, very common in all countries, and particularly so among the English in India.) The result upon the countenance of the steward, who was standing by during the conference, was highly ludicrous; it assumed a lengthened scowl, expressing as plainly as possible, "I shall not make much in this district," for it so happened that the magistrate was extremely attentive to these particulars, and had made many very good arrangements in order to put a stop to the evils complained of, with considerable success, all which was well known.

The payment of the choudries remains to be considered. It would be arranged by fixing a per-centage (in the language of the country *dustoorie*) to be given to him by the owners of the carts,

bearers, &c., for whom he procured hire, the amount to be the usual rate in such cases, viz. half an anna in the rupee of the sums received by the latter.

It is by no means necessary that such an arrangement should be compulsory upon all, or preclude private bargains for hire between carters, bearers, &c. and individuals who required them. But as it is unhappily the case, that the English have, in general, so bad a name with the natives, that no one of the above classes will willingly engage to travel with them, it will be absolutely necessary to make some such arrangements as are above proposed, in the first instance. Moreover, it will be found convenient to all parties; those who require carriage, will know at once where to procure it; and those who wish to hire themselves will be able, at all times, to procure employment, and will willingly pay the *dustoories*, which they will find much less expensive than the loss of time in seeking for hire; to say nothing of the security they would thereby receive against ill-treatment and non-payment. This is not mere speculation. I have known the experiment tried, in more than one district, with complete success. It would doubtless occasion some trouble at first, and the dislike to incur this would, I have no doubt, prevent many collectors and magistrates, unless positively ordered, from making the attempt; particularly as they might justly urge that they were already so overburdened with business. Some few, I fear, prefer the present system, because they are thereby enabled to provide themselves and their friends with carriage at less expense than they ought to obtain it. But if they will fairly try the experiment, they will find that the first trouble will ultimately save them fifty times the amount. It may be mentioned, as an example, that the hire of boats has been very partially (in many districts not at all,) subject to the "Purveyance and forced labour system." The consequence, is that if there be a boat disengaged, any person can hire it without difficulty, and without the assistance of authority, the rate, of course, varying according to the demand.

It may be objected, that the system of employing choudries for every species of carriage has existed from time immemorial, in every town, and even in many large villages, yet that the evils

complained of have not been obviated. This is perfectly true, but the reason is, that the system has never, since the accession of the British authority (with the exception of insulated instances, from the exertions of particular functionaries), been put upon a proper footing, in our territories. In the first place, no choudry has been properly appointed by any functionary authorized by Government so to do. Consequently, in most large towns there are several people who claim the situation. One produces an order from a magistrate; another from a collector; a third from a circuit-judge; a fourth from some military commanding officer; a fifth has an old *sunnud** from some native chief; and a sixth claims to be choudry, because his grandfather held the office some forty years ago, &c.,—a sufficient proof, by the way, that the situation is an object of ambition to those concerned, each of whom attempts to enforce his authority. In the next place, the choudries have always been allowed the assistance of the police or the revenue myrmidons, to *seize* what is required, so that in addition to the extortions of the latter, that of the choudry is superadded; and, lastly, the choudry has had no authority to explain the rate of hire, to forward complaints to the magistrate; nor has he been made responsible for the behaviour of those whom he furnishes. Let the experiment be fairly tried in a proper manner, and the beneficial result would soon be demonstrated.

With regard to the supply of sheep and cattle for the European troops, and other articles required by the commissariat, the simple and only plan is at once to abolish all requisitions to the magistrates, all establishments of butchers' police, and to order the commissariat officer to invite tenders for supply by contract. This will very soon introduce a new order of things, and tend to revive the breeding of sheep, which has declined very much in all our north-western provinces. In the Doab, in particular, it has almost been annihilated by this intolerable purveyance system; I once heard a magistrate from that part of the country say, "I am obliged to pay from fifteen to twenty rupees a score for sheep for my own use; this being the fair market price at which the owners are willing to give them; and yet I am forced to issue an

* A diploma or commission.

order to a scoundrel of a commissariat butcher, authorizing him to plunder the people of their sheep at ten rupees a score; while I know that he never pays more than seven, and commits all sorts of extortion besides." I could give a list of many natives in the Doab, whose sole livelihood, some years ago, was raised by breeding sheep, for sale both of the animals and the wool, but who, after a few visits from the commissariat "*butchers' police*," sold off the remainder of the flocks, and turned their attention to other matters. The consequence is, that sheep, which were to be procured in abundance, five-and-twenty years ago, at ten rupees a score, are now rarely under twenty rupees. Yet the English population has but slightly increased during that period: and the small difference which this would cause is amply made up by the increased value of money, and the poverty of the mass of the people,—numbers of whom, in those times, ate animal food, but are now obliged to forego that indulgence. The "*purveyance*" is the cause, and my readers will be surprised to hear, that while the breed of sheep has almost disappeared from our own provinces, it has increased in Oude, Bhurtpoor, and other native states in the latter direction. These, particularly Oude (much-abused Oude), are the places from which we are chiefly supplied with sheep; the reason being that *there* they are free from the oppressions and extortions which have discouraged the breeding of sheep in the British territories.

Supplies of food may be easily procured for the convicts* and others attached to the gaols, by enforcing a proper system of discipline, and preventing ill-treatment; a little attention on the part of the magistrates, and a few slight punishments, would effect this. It is sometimes quite astonishing how speedily a complete change is worked in a short time, in India, in such matters. I could instance a district in which, for three years, not a shopkeeper would willingly consent to supply the convicts; and the plan had been to compel the different dealers to come in rotation, for a week each, a certain portion of loss being severally incurred by them. A new magistrate came, who was not

* In India, the convicts have a money-allowance served out daily. they buy their food, firewood, &c., and every man cooks his own meal.

only "up to" the sort of thing, but knew how to put a stop to it. Before he had been two months in the district, he received petitions from a dozen different dealers, soliciting to be allowed to serve the gaol! In addition to a proper system of discipline, I should mention that it is absolutely necessary that the shop-keepers should sell to the convicts at a little dearer rate than is current at the neighbouring market. The necessity arises from the small portions of flour, spices, and other articles required by the individual convict, which renders some little loss unavoidable, in minute subdivision and weighing out; the difference is not much, one in thirty being, on the average, sufficient to cover the loss. Thus, if the price of flour is thirty seers* for the rupee in the bazar, it would be retailed to the convicts at twenty-nine seers. This is no hardship to the latter, nor indeed would it be so, if the food were retailed to them at double its market price, because their allowance is not a fixed sum of money, but is always settled, so as to allow them a full meal, varying with the price of provisions. The stout appearance, indeed, of the convicts all over the country, is a sufficient proof that they are not stinted in food. The guards and others, not being confined, have, of course, their option in dealing with the gaol shop-keeper, or going to the bazaar. I would lay the greater stress upon this, because, in most cases, it is an indispensable arrangement to induce any shop-keeper to attend a gaol, even where the discipline is good; but "young hands" who are for the first time in charge of a district, do not understand it, and are very indignant at the imposition on the "poor convicts," and often order it to be abolished. The result is *forced attendance* of the neighbouring shop-keepers to supply them. Some magistrates have a set of short weights made for the use of the gaol; which is, perhaps, the best plan, and saves much trouble in calculation, the rate being then nominally the same as in the neighbouring

* A seer or ser is, in round numbers, two pounds avoirdupois. In India the common way of speaking of the price of grain and many other articles is just the reverse of what it is in England. Instead of reckoning it at so many shillings or rupees for a given weight of grain, it is reckoned at so many seers weight, or maunds (a maund or mun is forty seers) for one rupee. Strangers, unaware of this, are sometimes puzzled to hear a person complain that "Grain is becoming dearer, it was last week at thirty, it is now only at twenty-five," meaning at thirty and twenty-five seers for a rupee.

market, while the quantity delivered is somewhat less. Of other practices among gangs of convicts, such as plundering gardens of fruit, breaking down fences for fire-wood, abusing passengers, and others, which the lax state of discipline allows them to practise almost daily when out at work, I shall treat hereafter.

With respect to the repair of tools for the gaol, as regards workmen and materials; the transportation of lodgings of convicts from place to place; the rate of carriage in matters appertaining to the police; transport of treasure; repair of the police-stations, and other details, two points are necessary to be considered; for, in the existing state of things, both Government and their functionaries are to blame. The plan is obviously to pay a fair rate for what is required, and there will be no difficulty in procuring it. In the first place, Government must authorize the magistrates and collectors to make the proper disbursements, which, although not positively prohibited, they are, by the operation of the economy system of late years in force, almost entirely prevented from doing. I cannot conceive it to have been the intention of Government; but this is most certainly one of the results of the extent to which economy has been pushed. If our rulers were really aware of the discredit which is thereby brought upon our Government, and the disgraceful practices which now exist, they would not delay long to issue orders which should provide a remedy; but this subject will be treated of more at large hereafter. In the next place, the public functionaries must take a little trouble at first, in introducing the new system, and proving to the people, *practically*, that payment for services performed is really to be obtained.

The mode of procuring supplies of grain and other food for camps will require a few observations. Several regulations and orders of Government have been promulgated, both with a view of promoting the convenience of travellers, and of protecting the inhabitants from oppressions. All have hitherto failed; for all have been founded on a radically false impression, namely, that in a country which is so populous as to be capable of furnishing, at any given time and place, supplies of every description, to two or three hundred thousand natives of all ranks

and classes, it is necessary, when a few hundred British soldiers or sepoys, with their officers, and the servants of the latter, or a camp of half-a-dozen civilians, are to pass over the same ground, to make arrangements, on a grand scale, through the public functionary, to enable these to procure food, &c.' It is undoubtedly necessary in the present day, and the fact speaks volumes for the system of British-Indian government. The reason, too, is no less eloquent,—because repeated experience of ill-treatment by the English and their followers renders the mass of the inhabitants averse to have any communication with them!

Before proposing a remedy, I must first describe the mode of proceeding. The general principle on which requisitions are made to the collector, and orders are by him issued to his subordinates, has been already described. The detail of the proceedings of the camp remains to be given. Those who proceed to pitch the avant tents, arrive at the ground at night; at day-break they proceed to the police or revenue station, and demand that one or more shop-keepers should be sent with their goods to attend the camp. They also give a requisition for fire-wood, earthen pots, milk, eggs, and often fowls, kids, and other articles. The obligation on the shop-keepers to attend the camp would be no great hardship, if they were sure of being paid for their goods. Indeed, were this the case, they would come forward voluntarily, the certainty of a considerable sale for their goods naturally operating as a sufficient inducement. But this is not the case. The servants and followers all take what they require; payment being postponed till the evening. It is the same thing with the fire-wood and other items of the second class, which is sent from the village to the camp, in the gross, sometimes under charge of a police-officer, often without any one to take care of it. The owners of the articles very seldom make their appearance, well knowing that it would only be losing so much time, in addition to their goods. The whole is immediately seized upon by the camp-followers: evening comes, and payment is looked for. Some of the servants pay for what they have had, others neglect to do so; what is to be done? The shop-keeper, in the dusk of the evening, cannot possibly recognise each individual

of a large camp whom he never saw before. He sometimes ventures an appeal to the master, but being debarred access to the interior of the tent, he can only do so by a loud call for "justice." This is most frequently answered on the part of the master, who is comfortably seated at his dinner, by directions to send away the impudent rascal who is making such a noise. Sometimes, indeed, the master goes through the form of asking what is the matter; and, on the shop-keeper's complaint being stated, half-a-dozen of the servants call out that he has been paid his proper price, but is not satisfied, and demands more. "Flog him out of the camp," is but too often the reply, while about one in twenty takes the trouble to inquire into the matter, and afford redress. The servants and followers, of course, are acquainted with the disposition of their master, and unless when they are unfortunate enough to have one of the latter description, the extortions and oppressions practised are almost endless, rising always in proportion to the rank of the traveller. The servants of a civilian of rank may often be seen living in a style of luxury far superior to anything they can procure at their own station. Nay, I have seen the horses and even the *dogs* of a commissioner of division lodged in temporary stables and huts at every stage, to form which, fine trees, belonging to the farmers and landholders, were cut down without scruple, while they themselves and their labourers were forcibly employed in cutting them down and building the huts!

With regard to the loss to which those who supply an English camp are almost invariably subject, I will produce a fact which I know to be true. At a place containing between thirty and forty hucksters' shops, the owners held a meeting to devise some plan of avoiding, or at least mitigating, the extortions to which they were subject. After much discussion, complaints were deemed useless; and, at length, three of the party, who were bolder, and understood better how to deal with the English and their servants than the others, volunteered to put a stop to the routine service, by themselves always attending the English camps, *provided all the others would engage, by a general subscription, to reimburse them for all losses they might sustain*, which was joyfully

acceded to by the rest! More than one individual, as well as myself, could testify to the truth of this. But for proof of the fact generally, I need not go further than the general orders of the Vice-President in Council, dated December 4, 1832. In paragraph 10, containing Rule 6th for the guidance of the civil and military officers, my readers will there find that unavoidable losses under this head are to be charged to Government in a contingent bill; and as these orders were issued after an inquiry by a committee appointed for the purpose of investigating the subject, the truth of the extortions being generally practised, may be considered as settled beyond question.

A remedy for all this remains to be devised. Various orders have, at times, been issued by Government with this object, and those just alluded to contain some good provisions. Among others, sepoys and followers have been prohibited from going into bazars, but this introduces the forced attendance of the shop-keepers and others upon the camps, and leads to all the abuses I have just mentioned; although the shop-keepers would willingly attend, were they secure of payment. The only efficient remedy will be found in the following rules:

First. Allow all attached to the camp to go freely into the bazars and villages, to purchase what they or their masters may require: oblige them to take the articles at the current bazar rate, and pay ready money on the spot.

Secondly. Make the head of the camp responsible for all oppression committed by those attached to it, unless he discovers and gives up the offender.

These two rules, if duly enforced, would effectually put a stop to every evil complained of. With respect to the first, some authority ought to be established at every regular stage, analogous to a country justice of the peace, with sufficient power to take cognizance of and decide all such cases on the spot, under an appeal to the magistrate of the district. I am inclined to think, that, in a considerable degree, it might be intrusted to the police-officers: for a little consideration will show that, as regards the first rule, the authority would be merely preventive, not executive. "Pay for what you want at the established rate, or go without it."

With regard to the second rule; taking into consideration our present situation in India, and the high rank of many of the civil and military officers, it might be inexpedient, if not indecorous, to subject them to the authority of a police thanadar, such as he is on the existing system of British Indian police*. The best plan, therefore, would be probably this:—Let positive orders be given to the police-officers, that in the event of any complaint being made of even the most petty oppression, extortion, or ill-treatment, by any sepoy, servant, or follower of an English camp, he is immediately to bring it to the notice of the head of the camp; equally positive orders must be issued that this person is immediately to investigate the case, and give justice on the spot; in the event of his refusing or neglecting so to do, the police-officer should be directed to bring the matter instantly to the notice of the magistrate. This functionary should be ordered to investigate the matter immediately; and, having ascertained that any damage had been committed, extortion practised, or ill-treatment taken place, to fix the amount of compensation in the two former cases, with a fine in addition, if the case appeared to require it; and a fine in the last, together with a reasonable indemnification to the complainant and his witness for the time they had lost in attendance on the court. The sum total he should be authorized to demand either in person or by letter from the head of the camp, who should be obliged *instantly to pay the demand*. If he should deem it unjust, let him, like other individuals, have his remedy *afterwards* by an appeal to the commissioner of the division. A few such occurrences as these, particularly if they were published in the *Gazette*, would very soon induce the civil and military officers to keep so sharp a watch over their followers, that the oppressions now so intolerable to the people, would ere long be remembered only as having *once existed*. But

* After all, the great objection is *colour*. An Englishman, whatever be his rank, must, in England, submit to be apprehended by even common constables, should he behave so as to subject himself to this; but our English

common constables are white, whilst unfortunately the superior officers of the Indian police are black.—It would be *intolerable that a black man should have authority over a white one*!

no half-measures will produce so desirable a result. Nothing short of a system as decisive as that I have suggested. On the other hand, the civil and military officers must be vested with sufficient authority when marching, over the soldiers, servants, and followers of their camps, to investigate complaints against them; to enforce restitution for extortion, and impose slight fines; (for slight fines to the amount of a few pence, up to four or five shillings, would be quite sufficient, when it was found that the punishment followed the offence.) The amount should be instantly given to the beggars at the place, who were real objects of charity, or sent to the magistrate. There would be little danger of the authority being abused, as few people are disposed to look too severely on the peccadilloes of their own servants, when they themselves do not suffer from them. At present they have not such authority, and might *by law* be punished for exercising it; although so obviously for the furtherance of the ends of justice. This consideration leads some who are well disposed, to decline interfering in such cases, and to tell the people they may complain to the magistrate,—a perfect mockery in the present state of things. The scene of the complaint probably lies fifty miles distant from the residence of the magistrate. By the time the complainant reaches the station, the camp has proceeded several marches into another district; and, even supposing that the plaintiff has overcome all the difficulties of discovering the correct name and designation of the person whose servant has ill-treated him, and of bringing his case to the notice of the magistrate, and that that functionary does address the civil or military officer on the subject; often no notice is taken of it, or an insolent or evasive answer is returned, (the truth of which I could prove by numerous official documents,) and redress is out of the question, unless the magistrate should refer the matter to Government, which for various reasons he is rarely inclined to do*.

* Were matters on a proper footing, the only arrangement which the largest camp would ever necessitate, would be to send word to the shopkeepers and others of its approach. They will provide everything as they do now for the large camps of natives of whatever rank. In very poor districts, the collector might have to make a little advance in money, but there would be no occasion for him to trouble himself with the detail: thus

I would bring to public notice another circumstance, the truth of which may be easily ascertained by a proper inquiry on the part of Government,—viz., that in the central provinces about Behar, it is the common practice for the civil officers of all ranks, when they are about to march, to require carriage of every description at free cost, and even the use of tents, from the rich landed proprietors, who are there to be found, to the blessing of the people, residing on their estates. Some of them go so far as to refuse even to pay for the food of the elephants and cattle, while these are employed in their service, but oblige the owners to submit to this expense also, as well as to the deprivation of the use of their cattle for many months in the year ! Well may those who pursue this mode of conduct decry the anticipated colonization of English settlers. Is this a fit system to be tolerated by an English government in India ? Yet I have actually heard it spoken of in society, in the coolest way possible, as a *convenience* enjoyed by the civilians in that part, which those in the upper provinces were not so fortunate as to possess. *There*, by the erection of the revenue-screw-engine, on a foundation laid by violated British faith, crowned by the Ryotwarrie system, there is hardly a man left who possesses those *conveniences*, for the benefit of his English masters ; almost all are reduced to a happy state of equality on a bare subsistence !

I must be allowed to make a few general remarks before concluding this paper.

The principal rule towards putting a stop to the evils of the system above delineated must be, to abolish all compulsory means in procuring what is required, and introduce, instead, civility and just payment. Government may do a great deal by a simple

had much better be left to those concerned, who would repay advance as soon as the camp had passed. Camps of unofficial natives, however large, are, however, supplied without any advance, even in the poorest districts.

It would be a very good rule, if every English gentleman, particularly the civil and military officers, when marching singly, either on business or for

pleasure, were required previously to send word to the magistrate of each district of his passing through ; stating the stages he should make, and the probable date on which he should arrive at each. This would greatly facilitate the discovery of whose camp was to blame when complaints were made.

order, which will recommend itself by its economy. Every department is supplied with an establishment of jemadars and chuprassees (Anglice, a species of sergeants and constables). Commercial-residencies, commissariat, executive-engineers, clothing-agencies, timber-agencies, &c.,—all have a little police-army of their own, for such it virtually is, with the great evil of being under little or no control. These chuprassees are utterly useless for any good end, and are only employed either to oppress the people, or in the private service of those at the heads of the respective departments. If any one of these wish to procure carriage or workmen, provided there be no fear of ill-treatment or non-payment, the native clerk in the office, or the head workman, would at any time procure whatever is required. In this case the chuprassees are useless. If their aid be required, it is evident that there must be something wrong; for it is utter nonsense to say that a stationary officer carrying on a manufactory on the part of Government cannot procure workmen and carriage, unless from the above-mentioned cause; while the English and native merchants next door to him can obtain whatever they require. If one of these officers require a *Department Police*, it is quite sufficient proof that he is unfit for his situation. He must, either from inefficiency or neglect, be unable to check the abuses and malpractices of his native subordinates. It would be a most excellent thing for the country, if Government would discharge all these mercantile department police-establishments, and it would create a considerable saving. The two first are by far the worst, particularly the commissariat, whose chuprassees may be found all over the country ill-treating the people; it being the practice in that department to supply a number of them to any one who furnishes an article to the department. Under the proposed plan, these different departments would be infinitely more efficient than they are at present.

Unhappily, under the present system, the dislike of the natives to have any dealings with the English is so great, that a person who is both able and willing to prevent abuses by his servants and others, finds great difficulty in gaining credit for his good intentions. It requires a fixed residence of a year, or even two, in a

station, before an Englishman can establish his character ; but let him once gain the confidence and good opinion of the people, his influence in future will be unbounded ; and whatever he may in future require will be readily brought to him, whilst others at the station cannot induce a native willingly to come near them. Some have the good sense and proper feeling always to act in this manner ; but there are, I fear, but few who will take the trouble, or, indeed, know how to set about it ; and many who begin with a right disposition, become too indolent to persevere, and ultimately resort to the old system. In illustration, I will give two instances. At a certain station was a barrack-master, who had held the situation for many years ; during the whole time, both his own and the magistrates' police were in constant requisition to procure the needful supplies for his department ; the reason being that his native subordinates ill-treated and ill-paid those employed. Complaints were occasionally made to him, but he turned a deaf ear to them. His self-love being piqued at the idea that anything could be wrong in him or his establishment, he laid the blame upon the bad disposition of the workmen and others, &c. He was succeeded by another ; although no change took place in the subordinate establishment, who had been habituated to practise oppressions, yet by pursuing a different system, in about a year, his character stood so high with the people, that without any assistance from magistrates or chuprassees he was able to procure whatever he wanted. The other instance is still stronger. Captain A. was employed in some public works in district B. Being unable to procure labourers, he wrote to Mr. C. who resided in the neighbouring district, some fifty miles from the scene of his operations, requesting his assistance ; which was promised upon certain conditions on the part of Captain A. Within one week, Mr. C. had enrolled and despatched upwards of a hundred labourers, *every man of whom came from district B., and some from within ten miles of Captain A.'s works ;* and that, too, at a less rate of pay than was offered by Captain A., and what is more, when the labourers learned their destination, they refused to go, unless Mr. C. pledged himself to guarantee their receiving their full pay ! Now, had this barrack-master and

Captain A. been told, "You shall have no official assistance whatever, and if you cannot carry on your works, you shall lose your situation," what course must they have pursued? They must have been obliged to investigate what was wrong in their own conduct, or that of their subordinates, and must have corrected what was amiss. They would then have found their task easy enough, all difficulties in finding the adequate number of labourers, and the requisite supply of material, having disappeared. And this is the reason why I assert that the different departments above-mentioned would be *more efficient*, were they deprived of all means of employing force.

Finally, the English must endeavour to conquer their dislike to the *colour* of the inhabitants of India, so far as to treat them with a little civility, and take a little trouble in superintending the conduct of their subordinates, servants, and followers. They need not be apprehensive of *lowering their dignity*, for in this country (as in England) those who behave with politeness, gentleness, and civility to their inferiors, will always be regarded by them with greater respect and deference than those who are overbearing and imperious. Had this conduct been adopted by the commissariat-officer at Agra, who had some months allowed him to make his preparations, we should not have heard of the force which marched from thence to the attack of Bhurtpore being stopped at the first march for want of supplies. But the commissariat-officer, instead of taking any trouble himself, left all to a Bengallee baboo, or some such equally-efficient personage. The most extraordinary part of the story is, that such shameful neglect was not visited by any punishment. If report be true, indeed, the commissariat-officer certainly narrowly escaped *hanging* at the hands of the enraged general who commanded; and it is probable that the fright which the threat produced, may have been considered a sufficient punishment. The importance of the subject must be my excuse for the length of this paper, and for the repetition and tautology which will be complained of; for I would again observe that though every particular instance may be of no great consequence, the aggregate evil is intolerable to the people, and productive of infinite discredit to the Government and to the English character generally. I am not alluding

(as before observed) to a time of war, but describing the ordinary transactions of Government and its functionaries in a populous country at a period of profound peace. And under these circumstances, I am convinced that by a proper method, every evil complained of under the "purveyance and forced labour system," may be speedily and completely checked.

October 10th, 1833.

P. S. Every instance and illustration in this, as in all my papers, alludes to a particular individual, and real occurrence. My object is not to attack individuals, but to expose the evils that pervade our British Indian administration; besides I consider it extremely improper for an anonymous writer to use the press in assailing the character of individuals by name, unless where the conduct of any one has already been published by competent authority, or has been matter of official notice: in either of these cases, the business is free to the comments of any one. The Agra commissariat-officer's conduct was the subject of official inquiry.

No. XXVI.

ON THE SYSTEM OF ECONOMY LATELY INTRODUCED.

It is one of the tritest observations, that the government of a country should be conducted on the most economical principles consistent with due efficiency. The sole object and intent of government is, or ought to be, the benefit of the people; and as the expenses which it involves are defrayed by taxes levied on the community at large, the maxim seems self-evident.

With respect to the Indian government, however, there are several anomalous circumstances which distinguish it from that of any other country, and which should be borne in mind in considering this subject. First, we have a governing power in England, the East India Company. Secondly, a subordinate local authority. Thirdly, the people of India, who are subject to both, although it is most certainly not for *their* benefit that the

two former authorities exist. The chief exertions of these two have been devoted to the same object, that of raising as large a sum as possible, by every means of the most oppressive taxation, from the third estate, but with a very different end in view. By both has the welfare of the people been equally disregarded. The object of the first has been to secure as much as possible for themselves in the shape of remittances for the China trade, and to increase the dividends of the proprietors; and they have always inculcated economy on the local government. That of the second has been, to be as extravagant as possible. They would derive no benefit whatever from economy, while the contrary system would give them considerable increase of power and patronage to provide for friends. In practice, this last mode of proceeding has been far more beneficial than the other, and has tended to lessen the evils to which India is subject by being ruled by a handful of foreigners. Between these two there has been a constant struggle, each party endeavouring to secure the largest share of spoil, the one for themselves, the other for their friends and followers, while the poor natives of India have been the victims of both.

The arrival of Lord William Bentinck gave a new aspect to the affairs of India. The Court of Directors had apparently become sensible that the existing state of affairs could not long continue, either as respects the mode of government, or the system pursued in India. Those among them who are the real directors, (an authority which is usually limited to three or four of their body,) so far at least as the internal affairs of India are concerned, could not be ignorant of the real state of the country and the impoverishment of its people. They were also sensible of the increasing hostility towards themselves, both as the superintendents of Indian affairs and as the monopolists of the China trade*, and anticipated a speedy downfall of their power. With this prospect before them they seem to have come to the con-

* The China trade was, and is, the chief object. Having gained that, the people of England have disgraced themselves by allowing the Ministry | and the Court of Directors to drive a bargain in the disposal of the people of India with as much indifference as if it were about a herd of cattle.

clusion that there was no time to be lost ; the charter being about to expire, and the chances of its renewal uncertain. Retrenchment in every possible mode that could be effected without interfering with their patronage, or the interests of their friends at home, was immediately resolved upon, both for the sake of immediate profit, and with the latent hope, that by a show of fair appearances they might perhaps be able to deceive the English public, and procure another lease. Under these circumstances Lord William Bentinck came out as Governor-General of India. The strongest injunctions were laid upon him to economize, which met with the most gracious reception from his Lordship, because he appears unfortunately to have entertained the notion that the whole of the Government servants, civil and military, were revelling in luxury and idleness, and that the public service would be best promoted by increasing their duties and diminishing their pay.

Undoubtedly, during his Lordship's administration the affairs of India have taken a new course, and a system more enlightened than was known before has been adopted. While, on the other hand, the changes he has introduced have not been without their attendant evils, which have had their due effect. The economical system is well known to be partly his own work, and partly that of his masters : for the harsh mode in which it has been carried into effect, and the distrust and suspicion displayed towards its victims, he is entitled to the greatest share of credit ; while I have heard a very pertinent question frequently asked of his admirers, "How much of the improved arrangements are to be placed to his own account, and how much to that of the Home Government ?" Another, also, has generally followed : "Has Lord William ever had the courage to delay the execution of any particular order which may press with undue severity upon any one class, and urge the reconsideration of it upon the Court of Directors ?" It is much to be regretted that the secrecy and concealment which still prevails in the government of British India should disable his friends from replying to these two inquiries.

But this is a digression. "*Revenons a nos moutons.*" It was declared that things had arrived at such a pitch of extravagance

and mismanagement, that it was impossible to allow it to remain any longer, for that the functions of Government would be altogether checked. In any country, when this is really the case, it stands to reason that economical measures must be introduced, but what is the just and reasonable mode in which this should be effected? Would it not be, in the first place, to publish a plain statement of accounts, and then to adopt a plan of reducing the expenditure by a per-centage reduction on the salaries, pay, and emoluments, of whatever description, received by every one without distinction, connected with the Government, from the Governor-General to the lowest servant of the Company's establishment? This would have been fair to all; and though, doubtless, all would have lamented the necessity, and a considerable number would have grumbled, there would not, most certainly, have been that general dissatisfaction, and disinclination to duty and exertion, which now prevail in the minds of almost the whole civil and military services, covenanted and uncovenanted.

Unfortunately, however, this has been carried into effect on the plan hitherto universal in every proceeding connected with the British Indian administration. One party enacts the rules and orders, without feeling their effects; the other feels the effects, without possessing the slightest share, direct or indirect, in the enactment. Those who ordained the reductions, took care that they themselves should not suffer. The extent to which they have been carried, is of no slight amount. On the authority of a member of council, I assert that the total reduction in the emoluments of the civil service involves the sum of no less than between nine and ten lacs of rupees*. Those of the army have not, perhaps, been so great in proportion to the total numbers and pay, but there can be little doubt that they have been productive of much greater hardship, and will produce more ultimate evil than the former. The civil service is still a very tolerable provision for younger sons, or for those who have neither interest nor inclination for the learned professions at home, or the army or navy of England; but certainly, few parents in the rank of

* 90,000 or 100,000/.

gentlemen, and none at all in a superior grade of life, who have any knowledge of what the Indian army is, would, in its present state, think of sending his son a cadet to India, who could possibly provide for him in any other way; and we may anticipate a very inferior class in future, to fill the situations now occupied by men of education and principle. The general mode of carrying the reductions and plans of economy into effect may be gathered from an observation of the member of council before quoted, in reply to a person who was soliciting his interest to bring forward a claim: "I can give little hopes, for these are times when even a claim of justice, if it involve any expenditure, has little chance of being attended to."

There is no doubt that considerable abuses existed; and, in many instances, needless expense and extravagance: I have before mentioned those of the commercial residencies, opium agencies, and other appointments of this nature. Some of those who held these situations, in reality, did nothing but sign their names to a certain number of papers daily; yet they drew, in some instances, larger salaries than those of the members of council; while others, of equal standing in the service, were literally slaving from morning to night upon less than one-fourth of the emolument. The absurdity and injustice of this was the greater, from the low estimation in which the commercial department was held: (a strong proof, by the way, of the little advantage the East India Company have latterly derived from their commercial transactions.) For many years past it was considered as a refuge for the *dolts* of the service; and many young men who, after having remained for several years *attached to the college*, were unable, either from stupidity or idleness, to pass their examinations, were allowed to enter the public service, with an understanding that they should be confined to the commercial line; that being the department in which their idleness or incapacity was comparatively of little importance. In this, a very proper reformation has been made by Lord William Bentinck. Another point also attracted his Lordship's attention; namely, that some appointments were *over* and others *under* paid, with reference to the labour and responsibility attached to them. The alteration on

this head was excellent in point of theory; namely, that each appointment should, in consideration of the above circumstances, be suited with an appropriate salary; but in carrying it into practice, a most extraordinary enactment was made, limiting the amount of salaries drawn by each individual according to the number of years he had resided in India, without any reference to his abilities or qualifications.

For instance, if a man of eight or nine years' standing were appointed judge or collector, he was still not allowed to draw the full salary of that situation until he had completed his eleventh year. Now really one would suppose that if a young man had, by talent or application, rendered himself qualified to discharge the duties of any particular office, two or three years sooner than was ordinarily the case, he would rather be entitled to *reward* than to punishment, by reduction of pay; or, at the least, that the full salary, which was deemed only an adequate remuneration for the labour and responsibility of that situation, was fairly his due when appointed to fill it; otherwise, if his qualifications did not entitle him to receive that amount of pay, it would appear to have been a piece of favouritism to depute him to an office the duties of which he was not competent to discharge. The real truth is, that in this, as well as in the half-batta business, and some others, an opportunity was seized to create a saving to Government, with little regard to justice or expediency. It was perceived that the majority of the existing race of civil and military servants were so situated that they must submit; and as for the future and contingent evils, particularly the prospect of the Government service being filled by an inferior class, these would not be felt in the time of the present Governors, either home or local. The high amount of the salaries of the civil servants, and the pay of the military, as compared with other countries, has often been alluded to. The cause has been fully explained in No. XIV. of this series. When Englishmen are allowed to settle, and provide for their families in India, undoubtedly a much lower rate of pay will induce men of equal abilities to enter the service.

The union of different appointments, and imposition of the

duties, in some instances, of a nature totally dissimilar, upon the same individual, has been effected in the same narrow and short-sighted policy. There was not a single office (it cannot be too often repeated) in the judicial and revenue departments, of which the duties were not infinitely more than could possibly be executed by the respective functionaries *to the satisfaction of the people* (this is the point); a fact which a very little proper inquiry would have fully substantiated: yet we have seen office after office absorbed, and the duties imposed upon men who had already more than they could perform.

As to the half-batta* affair, the subject has been already so fully discussed, and finally, as we have every reason to suppose, set at rest, that any observations on it will be tasteless to my readers; nevertheless I must be allowed to make a few remarks upon it. It has been confidently asserted that our present Governor-General received his appointment with a stipulation that he would carry the measure into effect; in corroboration of which it is observed, that had he arrived in India unfettered on this point, he would have been able to see the injustice and impolicy of the measure, and would, at least, like his predecessors, have made a remonstrance against the order. This has been mentioned to his disparagement; but I confess I do not perceive the sequitur. Supposing it to be the case, the matter stands thus. The Court of Directors say, "Our orders have been disobeyed by two successive governors; we have, nevertheless, well considered the subject in all its bearings, and are now determined to carry it into effect. This is a *sine qua non* to your being appointed." Even the most well-disposed, conscientious person might answer, "I disapprove of the measure; but you must be the best judges of its expediency; and in accepting the appointment I cannot hesitate in promising to obey your orders." I know, from unquestionable authority, that it was the firm determination of the Court of Directors to enforce the half-batta order *at all hazards*, and that the most contumacious person that could have

* The allowances of the military are rated under different heads, namely, pay, gratuity, tentage, horse-allowance, batta, &c. The affair alluded to was the reduction of the latter at certain stations, from full to half-batta. The term batta is oriental.

been selected for Governor-General could only have delayed the measure for a year or two. It was part of the system above-mentioned of the court to collect and secure what they could, while the power still remained in their hands, and make some provision against the anticipated loss of their power and patronage. What is more, there is every reason to believe, although the fact cannot positively be asserted, that this proceeding was only the preliminary to still further reductions in the pay of the army, upon a much larger scale ; and that this was only prevented by the spirit displayed by that body, which alarmed the directors for the consequences ! It was not merely that evinced by the European portion of the army, but that shown by the native soldiery, that caused them to refrain, and in good time ; for the whole of the native army were in a state which a very little additional excitement would have quickened into a flame which would not have been so easily allayed. They reasoned, naturally enough, in this way : “ If our English officers, who have their relations and friends at home to look after their interests, are treated thus, what may we expect who have no one to take our part ? ” The Court of Directors were well aware of these sentiments among the native army, by private, if not by official communications ; and I believe it to have been the dread of serious consequences alone that prevented the extension of the reduction system : for it is not likely that the court, even with the views above-mentioned, should have pursued a measure increasing such universal dissatisfaction, for, comparatively speaking, so trifling a saving as has been made.

But, granting that the economy had become imperative, it is lamentable to see it carried into effect in such petty modes as have been adopted. Some of these have been alluded to in my last paper in the mode of procuring what is required for the departments of the service of Government. I allow that, to a certain extent, many, if not most of these, existed long before Lord William Bentinck came to India : but they have been carried to a much greater degree than ever was done before. The repair of police-stations ; the conveyance of sick or wounded men to the magistrates, and, generally, all that is done in furtherance of police-matters, the supplies for the gaols, repair of tools for the

convicts, supplies of sheep by the commissariat, and others which I have mentioned, are peculiarly worth notice. The saving is miserably paltry, compared with the discredit brought upon the Government; and it is *directly from Government* that the system emanates. The strictest injunctions are sent to the commissioners "to be economical;" and they are by them repeated to the different magistrates and collectors. Should one of the latter pay the full amount of what is required for the public service in any of the above-mentioned departments, and charge the same in his contingent-bill, the commissioner calls on him for an explanation why these sums exceed what is disbursed by other functionaries in the division? The statement of the simple truth in reply will not avail; he is told that such large sums cannot be passed, and that he must enjoin his native officers "to be economical." The magistrate or collector has no option,—however inclined to act with justice towards the poor people who are forced to furnish goods or to labour for the service of Government,—and is obliged, after a vain attempt to put a stop to it, to resort again to the purveyance and forced labour system. The service must be performed, and he is prohibited from making the necessary payments.

The miserable pay of our police-establishments used to be in some measure made up by occasional rewards for good behaviour. It is part of the extraordinary system of the British Indian government that all but perfection is expected from the natives whom they employ in the police department, or in any way connected with it; and indeed many who have nothing to do with it, are expected to risk life and limb in resisting gang-robbers or other armed plunderers. This they were by no means backward in doing, when a reward, considerable to them, was tolerably certain: but unfortunately this has been one of the items to which it was considered the shears might be applied. The commissioners now constantly refuse to sanction rewards, and the different magistrates have, as a matter of course, declined in a great measure to apply for them. Where the commissioner has been on intimate terms with the magistrate, he has candidly told him in private, "The man for whom you applied richly deserves

the reward, but if I authorize the expenditure of much money in any way, I shall get the name of extravagant." This feeling is particularly strong with those who are only *acting* commissioners. The payment of subsistence to those who are obliged to attend the sessions on criminal trials, is another of the items in which economy has been introduced. This was deemed worthy of the especial notice of government, by whom the attention of the commissioners and sessions' judges was drawn to the subject, and who now may be heard to boast that considerable abuses formerly prevailed, but that they have now greatly reduced the charges under this head. Certainly they have; but how? It is probable that, occasionally, the native officers of the court did charge a larger sum than that actually disbursed by them; but this, by a very little exertion of vigilance, might have been checked. The plan, however, has been as follows: 1st. To refuse all allowance for the days on which the witnesses are employed in coming to the court, and returning to their homes; 2ndly. To refuse any allowance to those who it is supposed can possibly contrive to pay their own expenses,—no matter with how much difficulty; and 3rdly. To give an allowance only to those who would be in danger of starving without it; and to make sure of there being no abuses, it is not granted to these, until they have either gone without food, or procured it by begging, for a day or two. Allowances for stationery, and other petty items, are reduced, or altogether refused, in almost all departments. Is this a method of proceeding worthy of the British-Indian government? Yet this sort of *candle-ends* and *cheese-paring* economy has been introduced by the present local government, one which has professed, and, in some respects, has acted up to its professions, to introduce a more liberal and enlarged system than had ever existed before.

Almost all improvements in the way of roads, bridges, serais, and other public works which are usually considered to denote the prosperity and civilization of a country, have been entirely stopped; and to make the matter worse, it has been accompanied by a system of *humbug**, certainly unworthy of those at the head

* This is undoubtedly a vulgar word; but until an equally expressive one, to which that stigma does not apply, be discovered, we must be allowed to use it.

of the government. All local applications of money for improvements have been checked almost entirely; it is very rarely, and with great difficulty, that permission is given to expend the smallest sum. The ferry-funds, and all others, I believe, even to the Calcutta lottery-fund, are now to be consolidated for general purposes. Even if this were the case, it is very doubtful whether matters would go on so well, as when the business is under the proper supervision of local authorities, whose immediate interest it is to promote improvements of which they will reap the benefit; doubtless abuses might occasionally prevail (where do they not?)—but we need not go further than the example of England, in which this is the universal system. Notwithstanding an occasional abuse, the roads and all public works and buildings are there in higher order than in any country in the world: while in the neighbouring countries, where the government professes to do everything, the inferiority is striking (but this is a point which requires further discussion hereafter). The real fact is, that the funds are now collected into the coffers of Government, from whence the greater part will not in all probability be allowed to escape, except for despatch to England. Almost the only work of any improvement undertaken by the present government, is the road from Allahabad to Delhi. It is to be hoped that the construction and provision for repair of this road will be arranged on a better footing than has hitherto been the case in Government works of this kind. The misfortune is, that all the improvements of the former local committees are, from want of attention to petty repair, going to ruin.

There is one point worthy of notice in the British-Indian government, because it is diametrically opposite to the state of affairs in almost all other countries. It is generally said that government should be as economical as possible for the benefit of the people. In India it is just the reverse; paradoxical as it may appear, the more extravagant the local government, the better for the country. In the former case, in proportion to the curtailment of the public expenditure, the public burdens are lessened. Not so in India: taxes are raised in the same degree, whatever may be the expenditure of the government. The

minimum to be collected has always been *the utmost that the people can pay*. The difference between an economical and an extravagant government is this. The former send their savings to England; the latter spend the money in the country; by which means it is not so generally oppressed or impoverished as it is by the economical government. The great reduction of native troops has been not only a great hardship to those discharged, but also to the numerous classes whose livelihood was gained by their expenditure. We have not yet heard of any reduction in taxation either in *esse* or in *posse*. Until the system be altered, every real friend to the people of India should do all in his power to promote extravagance on the part of the Government. Indeed, it would not be difficult to prove that the late mercantile failures will eventually be a benefit to the people of India.

In conclusion, I would urge on the present Government two points. First, not to lose sight of general principles and enlarged views in effecting a petty saving. Secondly, to consider, before it be too late, the impoverished state of the country, and the strong feelings of discontent everywhere existing among the people towards the English. With the talent for observation which Lord William Bentinck is said to possess, it is hardly possible that he can be unacquainted with the real state of things; or if so, the money that has been spent on his tours through the country will have been greatly misapplied. But, unfortunately, his attention has been too much absorbed by revenue, and the idea of realizing a large sum for his masters; without sufficient reflection on the means by which it was to be obtained, or the ultimate consequences which must inevitably result.

October 15th, 1833.

No. XXVII.

ON THE ANOMALY AND INDECISION WHICH CHARACTERIZE THE BRITISH-INDIAN ADMINISTRATION.

IN several of these papers it has been maintained, that generally, and particularly in the upper provinces, the British government

in this country, and the English as individuals, are not regarded by the natives in a favourable light. I have, in the description of the operation of Government, given very tolerable reasons for the existence of such a disposition, of which the following summary may be useful to refresh the memory of my readers:—

1st. The habitual and inordinate idea of our own superiority, and the equally strong impression of the corruption and inefficiency of the natives.

2nd. Their consequent exclusion from all offices which it was possible to procure Englishmen to accept, and the attempt to conduct all affairs by European agency.

3rd. The annihilation of almost all existing institutions, and the total inadequacy of those which have been substituted, for the administration of justice.

4th. The gradual impoverishment of the country by a system of taxation and extortion, unparalleled in the annals of any country.

5th. The ruin of the old aristocracy, and of all the respectable landholders, which has been systematically effected, in order to increase the Government revenue.

The truth of these statements has been tolerably proved ; and, moreover, points of inquiry have been suggested, which will enable any unprejudiced person fully to convince himself of it : indeed, though I am well aware that abundant assertions have been made (which are, however, much less frequent now than formerly) of the excellence of the British administration, and the blessings it confers upon the natives ; since we have begun to open our eyes and look at things as they really are, the facts are too evident to be disputed ; and the wonder is that, coming as they do, or ought to do, more or less within the experience of almost every individual in the country who is connected with the Government, they should so long have escaped observation, and that so much self-deception should have prevailed on the subject. I shall now proceed to show by a partial analysis of our regulations and rules of guidance, that even those who were constantly making these assertions must have been very well aware that things were not in quite so flourishing a state as they were fain to persuade both themselves and the public. I regret that want of sufficient leisure

will prevent my doing this in a regular method, but though my remarks will of necessity be desultory and scattered, they will furnish matter for serious reflection to those who may be disposed to give them their attention. Many additional points will also be illustrated, when I come to treat of the character of the people of India, and of the effects which the introduction of British institutions, manners, and example, has had on their character.

The principal point which strikes any one who carefully reads over the laws and regulations of the British Indian government, is the indecision which pervades the whole system. There is nothing settled, nothing final, no end or period to litigation, scarcely any security of any tenure or any right, especially of landed property. Laws are enacted one day without sufficient inquiry into their expediency, and rescinded a few months afterwards. Courts, boards, &c., are established to make arrangements of the most serious importance to those concerned, and shortly after, special commissions are appointed to revise or reverse the whole of the proceedings; sweeping regulations and orders are passed, founded on local and insulated occurrences; restraints upon restraints have been imposed on the acts and interference of the native subordinates; while overwhelming business, which it is utterly impossible to execute, has been accumulated upon the English functionary. Immense powers and authority are given in some instances; while in others, the very same officer is fettered by restrictions of the most absurd and extraordinary nature.

The great difficulty in all the courts, of bringing litigation to a close, is one of extreme hardship to the people. Independent of the difficulty, under the present constitution of the courts, of concluding a suit primarily, the delays and vexations caused by the multiplicity of provisions is intolerable, some of which are really of an extraordinary nature. To begin with the primary institution of a suit. It is well to observe how very easy it is for a dishonest person to disturb another in the possession of almost any property, and how difficult it is for any one to feel secure against demands of almost any description. We have, it is true, a "statute of limitations," indeed several provisions; but when analyzed, they will be found to present little or no bar to vexa-

tious claims. Regulation II. of 1803, section 8, prescribes that no suit shall be admissible of which the cause of action was earlier than twelve years before the date of preferring the suit; unless the plaintiff can prove that the defendant has acknowledged the justice of his claim; or that he has preferred his suit in some competent court within that period; or unless minority or other good cause have prevented his seeking redress.

Now, in this case, if a person be dishonest, it is not very difficult for him to procure a couple of witnesses to depose that he had made the demand, and that the other had promised payment, besides which, the concluding sentence, "*other good cause*," leaves it open almost to anything which the judge or his head-officer may consider such.

Regulation II. of 1805 contains some modifications and explanations of the above limitation, and extends it, in certain cases, to the term of sixty years. This might be supposed sufficient time, and indeed sec. 2, clause 3rd. of this regulation, declares this to be a final limit to the advancement of a claim; but it is immediately followed by clause 4, as follows:—"Provided further that no length of time shall be considered to establish a prescriptive right of property, or to bar the cognizance of a suit for the recovery of property in cases of mortgage on deposit, wherein the occupant of the land or other property may have acquired, or held possession thereof, as mortgagee or depository only, without any proprietary right; nor in any other case whatever, wherein the possession of the actual occupant, or of those from whom his occupancy may have been derived, shall not have been under a title *bona fide* believed to have conveyed a right of property to the possessor." The first part of this proviso opens a wide door to dishonest claims. If we consider the perishable nature of the paper on which deeds are written; the insecure state of the houses of the people, and the wars and devastations to which this country has been subject, very few real documents will be forthcoming, after a lapse of more than sixty years, and it is still less likely that any witnesses to the transaction should be alive. In this case it is very easy for a rogue to assert, that property, which his ancestors had fairly sold, had

been only mortgaged, ay, and to bring witnesses to prove that they had always heard such to be the case, or to put forward some one to advance a claim as a pauper, which the abuse of the pauper regulations, under our system (which loads every court with so much business as to render it almost impossible to give any case the necessary investigation), renders no difficult matter. I have known instances of it before now, and *many*, where the threat of such a proceeding has been made use of to extort money: but I shall hereafter discuss these regulations and their abuse in detail. As to the latter part of the proviso, it is difficult to extract any meaning from it. It may be doubted whether those who framed it understood their own meaning. Whose belief is to be taken as the test of the merits of the case? the plaintiff's or the defendant's? If the former, all the other enactments regarding limitation may at once be set aside, and the matter reduced to a declaration on his part to this effect: "I claim such a property, and as *I believe* the other party's title to be invalid, my suit must be heard." On the other hand, is it likely that one who, in the persons of his ancestors and himself, had held possession of property for a hundred years or more, would voluntarily say, "*I believe* my title to be invalid, and admit the propriety of the suit being heard?"

The foregoing observations allude rather to the great want of any check to the annoyance to which individuals are subject, by bringing forward a dishonest suit: the evils under which an honest man labours in pursuing a just claim, by delays and other impediments, are equally great. I have already allowed (see No. XXIV.) that the Regulations in themselves contain much wisdom and justice, but that their execution is marred by the deficiency of any proper executive administration. I shall hereafter give a specimen of the progress of a civil suit in the actual practice of the courts: but, for the present, let us suppose the suit in the first instance disposed of; the next step is the appeal. The great proportion of civil cases appealed in India has been a subject of astonishment to every one. Mill alludes to it, and seems to infer from thence the inefficiency of the courts of primary instance. He observes, "The number of appeals was, at any

rate, no proof of the want of need for the privilege of appeal." Had he ever attended a British court of justice in India, he never would have made such a remark. The reason of the number of appeals is very different. By the Bengal Regulations, a sort of latitude is left to the judge to enforce his decree, whether or not the case be appealed. In practice, however, the custom has become established, with rare exceptions, that an appeal always stays the execution. This is the secret; and this being the case, it is no wonder that appeals should be so numerous. A dishonest man appeals from the determination to fight it out to the last, in the hope that some chance may turn up in his favour; which course is not unfrequently instigated by lawyers, who do not scruple to insinuate that the judge would not attend to what they had to urge, with a view of saving their own credit, and of reaping a still further harvest. Others, with that improvidence which is so characteristic of the native character, neglect to think of future consequences, but merely wish to put off the evil day. Besides, as justice has been administered hitherto, the probability of gaining by an appeal was greater than that of losing.

On the introduction of the usury laws into India, and its effects, I shall speak more at large hereafter; but it is necessary just to advert to the subject in this place. In our zeal against usury, the courts have run into the opposite extreme, and constantly (I believe I may say in a majority of cases) have refused to allow interest on debts sued for. In some instances it has been refused altogether, and the plaintiff referred to a new suit for the interest: in some, a portion has been allowed, but never at a rate exceeding the Anglo-Indian legal standard, twelve per cent. In suits for landed property, or houses, it was very rarely that anything by way of interest, or usufruct, was allowed to the plaintiff for the period during which he may have been out of possession. Now we know that among the natives, from *eighteen to thirty-six per cent.* is the common rate of interest on money lent on good or tolerable security; so that a dishonest defendant, who had lost his suit in the first instance, appealed as a matter of course, calculating that even if he were cast in the appeal, and obliged to pay legal interest for the whole period, besides the additional

costs, he would, by keeping possession of and lending the money during the time the appeal may be pending (from two to ten or twelve years), gain much more than the additional sum which would be ultimately demanded from him. The Government, however, seem to have viewed the matter much in the same light that Mill has done, and to have considered that too much facility could not be afforded for appeals, and the usual hesitating system has been adopted in the regulations on the subject. Certain limitations are prescribed for appeals to be preferred,—one month from the decision of a moonsiff, three from that of a judge, &c.; but these are immediately followed by provisos for admission after the period has elapsed, which are so very vague that there is hardly a case which might not be brought under them.

A much simpler plan would be to ordain that “if the appeal be preferred within a certain time, it *must* be received; if after that time, it may or may not, at the discretion of the court;” for this is virtually the substance of all the enactments relating to appeals, and has the advantage in brevity and simplicity. The statute of limitations regarding original suits might be similarly simplified: the practical effects would be the same that they now are. The different courts, too, though they all perceive the injustice to which the suitor is subject, when a vexatious appeal is made from a case of their own decision, seem generally to take quite a different view of the point when an appeal is preferred to them from an inferior court. In the former case, the person who has decided the cause, if he have only paid that attention to it which duty requires, is well aware of its nature, of the character of the parties, and of the real reasons for the appeal. In the latter, however, a different view presents itself: the appellant, or rather the native lawyer, or law-agent, (*mooktar*,) who draws out the petition, easily makes out a pitiful case; injustice, oppression, aspersions against the judge, or inferior officer, of having refused or neglected to summon the petitioner’s witnesses, or to give sufficient time to produce them, or the documents necessary to prove his case; of a leaning towards the other party; accusations of the same nature against the officers of the court; the notorious

bad character of the opposite party, (who is, perhaps, one of the most respectable men in the district,) protestations that if the decree be enforced, the petitioner will be utterly ruined; and others of a similar nature, are the terms in common use in a petition of appeal*. To these are added a few neat compliments to the person, or court, to whom the appeal is made; and a declaration, that if the case be investigated there, the petitioners will be sure to receive justice. What is the consequence? A perusal of the primary decree alone, unaccompanied by the records of the case, together with a little cross-questioning of the appellant, would, in by far the majority of cases, prove his dishonesty, and the real merits of the case; but for this, the court has not at that moment leisure; so the appeal is admitted, placed on the records to be heard some years afterwards, and *an injunction issued to the inferior court to stay the execution* until the appeal be decided. *The object of the appellant is gained*; this was his reason for appealing, and he trusts to his luck or his roguery to help him out hereafter, besides the prospect of intermediate benefit above alluded to.

* Take the following in illustration. A petition was not long ago presented to a commissioner to the following effect: that the petitioner was greatly aggrieved by an order just issued by the magistrate to dispossess him of a house which he had inherited from his father, and through several generations; that his statements had been unattended to by the magistrate, who was committing the grossest injustice, swayed by the representations of his native officers, who had been bribed by the opposite party; and that he should be utterly ruined unless the commissioner would interfere; and much more of the same nature. Instantly an order was issued to the magistrate to send the proceedings for the commissioner's inspection, and not to proceed in the case until the receipt of further orders. The papers were accordingly forwarded to the commissioner, who there found an order literally to this effect. (I should observe that the magistrate had but lately taken charge of his office, and that this was the first

hearing in this case, which then appeared as a new one.) "From the statements of the parties, it appears that this case has already been more than once before the former magistrate; moreover, that a suit is pending for this very property before the civil court. Before proceeding any further, it seems proper to ascertain what previous orders have been passed, and what is the nature of the civil suit. Ordered, that the former records be produced, and that a reference be made to the civil court" One would suppose that such positive and wilful falsehoods would have been punished by a fine: no such thing. The order of the commissioner was simply to return the case to the magistrate, desiring him to complete it, and inform him of the result. Is the zeal of the subordinates likely to be raised by proceedings of this nature, showing such extraordinary and totally unmerited suspicion? And how can the natives think us in earnest in calling falsehood and perjury a crime?

The examination of the records of the different British-Indian courts of justice would fully substantiate the above remarks. The proportion of appeals has, for the last twenty or thirty years, been progressively increasing, according with the progressively-increasing arrears of the different courts. In certain cases it has received a check. The enormous quantity of business in every court beyond what can be properly performed, is now so notorious, and has been so abundantly proved, that it is well known a considerable portion must be neglected. According to the fancy or convenience of different functionaries, different descriptions of business have been more or less attended to. I could instance one court where the judge (who also held the office of magistrate) resolved to clear off the appeals which were at that time pouring in at the rate of twenty or thirty a month from the decisions of the inferior officers. In the course of a couple of years he decided several hundred, and occasionally imposed a slight fine on a dishonest appellant, and in one or two instances on the vakeels (native lawyers) through whom the case was brought forward. The result was, that the number of appeals filed were reduced to three or four per month. It will not avail to assert or suppose that the proceedings of the judge were harsh, and that thereby the parties were deterred from bringing forward appeals where the original decisions were unjust; because the same judge also cleared off an immense number of original suits, imposing fines where it appeared proper; yet the result was, and it has almost invariably been the same in similar cases, that an *increased number of suits were preferred*, because the honest parties perceived a chance of getting their just claims enforced; whereas, when they were merely subject to additional loss in the price of stamp-paper, and deposit of lawyer's fees, without any business being done, they declined to prosecute. This judge and magistrate was followed in succession by four others, none of whom were half so able or indefatigable. The result was, that *the number of original suits filed decreased*, and the proportion of appeals increased until they had reached to the former number of twenty or thirty a month. The number of inferior judicial officers was the same throughout.

On the introduction of the new system, in consequence of the improvement in the civil department, the former result again took place; namely, increase of original suits, and decrease of appeals.

I could instance another district, in which, in the hopes of disposing of the appeals from the decisions of the moonsiffs, it was the practice to refer them to the sudder ameens*. As soon as the cases were decided by these officers, special appeals were very often preferred. This amounted to about five or six per month, until a new judge intimated that (being also magistrate) as he had not leisure to look at the cases, he would admit every special appeal, and investigate the case when he had time; but that, whenever the decision of the moonsiff had been confirmed by the sudder ameen, he would not allow execution to be stayed; for seven months after this, not one special appeal was preferred. So much for generalities. In particular instances, I could enumerate several in which the primary decision was at once enforced, notwithstanding an appeal was lodged, and in which the appellant, although he was told that ample security was taken in event of the decision being reversed, to provide for his receiving his money back with interest, at once said, "If I had known this, I would not have appealed." On one occasion, an indigo-planter, on meeting his debtor, who had appealed the case, asked if he were not ashamed to look him in the face after his conduct, and whether he could not see that he was pursuing a losing course. "By no means," was his reply. "It is probable I shall be obliged to pay your demand, with interest, but I am making thirty per cent. by the money, which will much more than cover the interest and costs too." True enough, on the score of profit; besides, as I have above observed, it was not common to adjudge interest. This has been remedied by the circular orders of the chief civil court, dated December 19, 1823, and September 11, 1829; but, even to this day, these are frequently neglected by the judges.

One would suppose that sufficient obstacles were thrown in a creditor's way by legal appeals; of late they have been still

* Different grades of judicial officers, for which I am not aware of any corresponding terms in English.

further harassed by what are *illegal*. There seems to be something peculiarly flattering in having one's judgment appealed to, and this, I suppose, is the cause of the course lately adopted by the sudder dewanee, or chief civil court. By Regulation V. 1831, section 28, the orders of judges in appeals from the decisions of sudder ameens and moonsiffs are declared *final*, yet the superior court continued to receive special appeals in such cases, referring them back to the judge for second hearing. Now, in such a case, if the superior court were to specify any point upon which the judge had given an erroneous order, or any which he had overlooked, and, from inadvertence, had not properly inquired into, a conscientious man would, notwithstanding the irregularity or illegality of the order, be glad of the opportunity of rectifying an injustice he had unconsciously committed; but in those I have seen, the chief court have done no such thing, but simply issued an order for a second hearing. It is evident, then, that the court think the judge's decision wrong, and wish him to give a different one, which leaves the latter in rather an unpleasant predicament. An upright man reasons in this way: "I have already bestowed every possible care in investigating this case, and I have decided it to the best of my judgment and ability; no new point is brought to my notice; I can, therefore, only adhere to my former decision: but if I do, the pride of the judge of the superior court will be mortified, and I shall feel the effects in the next periodical report of my conduct, which is now to be transmitted half-yearly to Government."

There is one point in the consideration of appeals which is well worthy of consideration, and which will still further rebut the idea that they are generally preferred from a sense of injustice having been committed. For the last thirty or forty years, the same individual has, in the British-Indian provinces, held the united offices of judge and magistrate. To appeal in a civil suit is very expensive. To do so from the decision of a magistrate requires only a petition on a stamp-paper of the value of one rupee*, and a man who is sentenced to one or two years'

* Until the appointment of commissioners (in 1829,) the court to which an appeal was made, in a civil suit, or police case, was the same.

imprisonment, with labour, would readily appeal, notwithstanding his being set immediately at work, if he thought his sentence unjust; yet the appeals in civil suits have often been, to the amount of one-fourth or even of half the number decided;—of the decisions and sentences by the magistrate, not one in twenty, often not one in a hundred, or even a still less proportion, is appealed. We cannot suppose that all the different functionaries who have filled these double offices have been well acquainted with their duty as magistrates, or upright in their department; and ignorant of civil laws, rights and business, or corrupt in their decisions; nay, there have been many who have borne the character of intelligent judges and inefficient magistrates, and vice versâ. Yet, on the average, the proportion of appeals from their decisions in each capacity has been the same. What, then, is the reason of the difference? Simply this,—that an appeal, in a civil case, stays the execution. In the other, the sentence of the magistrate is immediately carried into effect. The same difference in the appeals from the orders of the former courts of appeal and circuit, and of the present civil and sessions' judges in their different functions, exists. Yet, in the latter case, sentences up to fourteen years' imprisonment, in irons, and labour, are frequently passed on men who are possessed of considerable property, and the expense of an appeal is a petition in stamp-paper of two rupees value. To give an instance. During the same period, (about nine months) a civil and sessions' judge decided fifty-four civil suits, and upwards of seventy trials in sessions, in which sentence of punishment was issued: of the former, twenty were appealed,—of the latter, not one.

It may be thought that I have dwelt too long on this subject; but the immensity of the evil of a virtual denial of justice can only be appreciated by those who have suffered from it. Some of our functionaries may think the case exaggerated, but if they would converse with *the people* they would soon be undeceived. I am no friend to bestowing arbitrary power on any man, but I can have no hesitation in expressing an opinion, that had all primary decisions been declared irrevocable, there would have been much less evil and injustice than have been caused by the

system hitherto in force; which has resulted from the perception of our rulers that great imperfection existed in the administration of justice, the cause of which (that is, the overweight of business which oppressed every office in the country,) they being either unable to perceive, or unwilling to admit, recourse was had to temporary amendments and patch-work expedients, which have too often produced more harm than good. The system which should be established, ought to give every facility to complaints, original or appeal; speedy decision; and punishment to fraudulent accusations and complaints.

Something has been done latterly to remedy the crying evil, but much yet remains. Of the district system, I shall speak hereafter; but I cannot help giving a hint to the court of sudder dewanee, who are constantly calling on the subordinate judicial officers for reports and explanations, why business is not done; to set the example themselves. Since the division of the court, and the increased number of judges, I do them the justice to say that, in one department of their duty, much practical improvement has taken place. Little or no delay, often not above a few days, now occurs in passing orders, in trials referred by the sessions' officers; but, in the civil business, affairs remain much in their former state. Let them exhibit a little more diligence in this department, or, if the number of judges be insufficient, let them boldly, and in strong language, represent to Government the injustice that is caused; and repeat the representations until the evil be remedied*. One more suggestion I will make before I quit the subject; that is, that where a decision has been given *ex-parte*; unless the loser could fairly prove that, from any particular cause, he had not received notice of the suit, his appeal should on no account be admitted, until the primary decree had been satisfied in full. I am convinced that, were it not for the delay which the prospect of appeals holds out, which, generally speaking, lie much longer on the file than original suits; numbers of cases would be at once settled, on the first institution of a suit, by the defendant paying the demand.

* Since the above was published, the number of the judges has been increased, and the civil business has been more speedily disposed of.

This is particularly apparent in *ex-parte* cases, for the reason above mentioned. The defendant sees that, by allowing the case to go by default, he will lose little in point of time, while he will save the expense of defending the suit. I could instance scores of cases to prove this, from the courts I have had to deal with; doubtless as great a proportion could be produced from others.

It will be found expedient, among other improvements, to limit the period allowed for appeals; or at all events to place the matter on some reasonable and consistent basis. The time allowed for an appeal from the decision of a register, sudder ameen, or moonsiff, is one month; from that of a judge, three months. This is intelligible. In the former case, the dissatisfied party had to go, comparatively, a short distance, to the office of the judge of the district. In the latter, a considerable one;—formerly to the court of appeal, now to the sudder dewanee*; situated in a different province, perhaps two hundred miles off: it was reasonable that a longer time should be allowed in this case. But in appeals from the orders of a principal sudder ameen†, the parties have no longer journey to undertake than in the former case; yet the period for preferring an appeal is three months. This was probably determined from the old prejudice that a case of large amount is of greater consequence than one for a small sum. It is strange that legislators cannot or will not perceive that, to one man, twenty rupees may be proportionably of greater consequence, than a thousand or a hundred thousand to another; and, in general, the intricacy of cases of small amount, and the difficulty of giving a just decision, is just as great as in those of higher value. It is to be hoped this anomaly will be rectified.

There is another feature in the late arrangement for the improvement of civil justice, or rather for its *establishment*, (for, indeed, there was virtually none before,) which is well worth reconsideration. It was hoped that the prejudice of regarding

* Chief Civil Court.

† Another grade in the judicial line, superior to a sudder ameen. Both are, natives of India, which term includes East Indians; that is, people of mixed blood, between Indians and Europeans.

the natives, without exception, as an inferior race to ourselves, was beginning to be on the wane, and that the barrier which kept us altogether distinct from them was beginning to be broken through; yet, so far from this, we are absolutely reverting to the old system, and re-establishing the boundary-line, which had been partially thrown down. For some years, causes in which Europeans were a party might be heard by *sudder ameen*s and *moonsiffs*. Now the authority of these officers has been greatly enlarged; the *sudder ameen*s, in particular, being invested with greater powers than were possessed by the registrars, who were covenanted civil officers, many of them of eight or ten years' standing in the service, and both they and the *moonsiffs* having authority to do what was formerly considered fit to be intrusted only to the judge, namely, to execute decrees, and every care has been taken, by giving respectable salaries; by making every inquiry as to character and qualifications; and by enlarging the sphere of selection, to secure the appointment of men of uprightness and efficiency, in those situations. Yet in this case, it is absolutely ordained that they are not qualified to hear any cause in which a British European subject, an European foreigner, or an American, is a party! (see Regulation V., 1831,) and this prohibition is extended to the principal *sudder ameen*, an officer whose powers are nearly equal to those of a judge under the old system, and which situation is, in several instances, filled by men who have moved in the first society which the country affords*! Is it possible that the natives and East Indian gentlemen should not feel this to be an invidious and degrading distinction? It is a mean and lamentable conclusion to the spirit of liberality which has been professed, and, to a certain degree, been acted on, by the present administration. What can have been the reason for

* The following is not an impossible, or even very improbable, circumstance. There are, in the different King's regiments in India, several East Indians, who are commissioned officers. As such, they are in the first society, are treated with perfect equality by the English residents, and are eligible to sit on a court-martial, to try officers of

the highest rank for any alleged offence. Supposing one of these to quit the army and settle in India, and ultimately to be appointed a principal *sudder ameen*: he would himself be considered unqualified to hear the most petty cause in which a European was a party!

reverting to the old illiberal policy? Did any evil result from the permission to these officers to try causes in which Europeans were a party? If so, it ought to have been clearly stated. On the other hand, very great evils are the consequence of the recent enactment. By far the majority of causes in which Europeans are a party, are produced by advances having been made by indigo-planters and English merchants to native cultivators: they are generally of simple contract, without much intricacy, and of small amount, such as would be cognizable by the moonsiff, and could be decided on the spot, at small expense to the parties: but they are now obliged to prosecute them, often at a considerable distance, in the judge's court, and in a much more expensive mode of proceeding; besides which, the time of the judge is now, in some districts, much taken up with these causes, which could be much better employed. The law on this head has given great dissatisfaction both to the European merchants and to the natives.

But what will be the case should any number of European settlers come to India? To what intricacies will it not give rise. Are the descendants of European parents born in India to be considered Europeans? They claim the title at present, and are so deemed by Government. Are their descendants, provided they intermarry one with another, and keep the blood pure, so to be reckoned? To how many generations is it to extend? If an European woman marry an East Indian, or an European marry an East Indian woman, are their children to be classed as Europeans or as natives? If these distinctions are to exist, it will actually be necessary to preserve, in each court, a genealogy of every European settler in India. If the rule is to be restricted to Europeans born, what an extraordinary anomaly will it be, that a certain court is not competent to try a cause in which Mr. A. is a party, but that when his son, who was born in India, and was sent to England for his education, returns hither to follow his father's business, *his* causes may be heard by the same court, in which, perhaps, the same officer may *preside*!

In pursuance of the general subject of this paper, I may mention the mode prescribed for the execution of decrees. To enter

into detail on this point would far exceed the limits of this paper. It will, of itself, be sufficient to form an entire essay. It will be enough, at present, merely to advert to the wide difference which exists in the regulations on this head, and in those for realizing the Government revenue, or any demand by farmers or intermediate officers which may be connected with the revenue. In the former, all sorts of provisoes and restrictions are enacted, to prevent the possibility of any abuse: no force is allowed, but the utmost mildness of proceeding is to be adopted; and, till lately, no officer but the judge himself (with some exceptions,—in certain cases,—a registrar might act,) was considered qualified to superintend the proceedings. In the latter, the lowest and least efficient officer in the Company's territory, namely, the *kazee**, is empowered, at the mere dictum of a landlord, to seize the personal property of an accused defaulter, and, unless he pay, or give ample security for the demand, and all expenses, to sell the same within five days of the attachment. He may call in the assistance of the police, to break into any dwelling-house, and search the whole, the *zenanah*† itself not excepted. In the execution of decrees, a certain time is allowed for claimants, should there be any, to the property attached, to come forward; every claim must be investigated; and, if rejected, the period of appeal must elapse before the property to which a claim has been advanced can be sold in the satisfaction of a decree; but in the case of revenue defaulters, no time is allowed, the sale at once takes place, and the claimant may sue the distrainer for damages in the civil court,—a mere mockery of justice, as these courts have hitherto been constituted. To arrest a person in satisfaction of a decree in favour of an individual, has been, until Regulation VII. of 1832, considered far too great an authority to be intrusted to any *native* officer; but the very lowest *civil* native functionary has been, on the mere word of the landholder that the defaulter is

* Under the native governments, the *kazee* was always a respectable, intelligent officer, and a man of some education and wealth. The extortion of the British government has, by resuming most part of the landed possessions of the people, reduced them

to such poverty, that they have been unable to give their families any good education. Many of the *kazees* of the present day are on a par with men who would be glad of a writer's place of five or ten rupees per month.

† Female apartments.

preparing to abscond, allowed, at once, to apprehend him and send him to the judge. Any person resisting the attachment of the property of a defaulter is rendered liable to discharge the arrear, with all costs, and to be forthwith imprisoned until this be done: for punishment of resistance to the execution of a decree in favour of an individual, the process is so tedious and difficult to be executed, that, practically, it is of little or no avail. It would require many pages to point out the whole of the differences in the two modes of proceeding; the great restrictions in the former, and the vast discretionary powers allowed in the latter: suffice it to say, that the extreme has been adopted in both; in the one case, of hesitation, lenity and indecision,—in the other, of severity. *Individuals* only were concerned in the former: the benefit of *the Government* in the latter. Hence the difference in the two sets of rules for guidance. I must refer those of my readers who are interested, to the perusal of the Regulations on the subject, or to that admirable compilation, “Prinsep’s Abstract;” where they will find all the provisions concentrated in a few pages, under the heads of “Enforcement of Decrees,” chapter ii., and “Extra Duties of Moonsiffs,” chapter x., with the exception of some later orders which impose still further restrictions in the execution of decrees.

The great suspicions which seem to have been entertained by the Government of their own officers, if we may judge by the constant restraints imposed upon them, is another striking feature; particularly if we couple it with the inconsistency which, in certain cases, bestows on them such ample powers. The judge is invested with far superior powers to those enjoyed by the subordinate judicial officers, the sudder ameen, and moonsiffs, in suits of primary instance; besides being authorized to receive appeals from the orders and decisions of the others, and to reverse any of their acts. Yet the judge is not allowed to appoint or dismiss, without the sanction of the superior court, any officer of his court whose salary amounted to ten rupees and upwards a month; while the subordinates were vested with uncontrolled authority to nominate or discharge any person connected with their offices. Is the British judge supposed in this

case to be more likely to be influenced by corrupt motives than the sudder ameens and moonsiffs? It is generally an object with Government to prevent too many individuals of the same family being employed in one office (as matters have hitherto been conducted, it is a proper precaution; although, were justice on anything like a proper footing, it would be comparatively a matter of little moment). Is the foreign judge, or the native of the country, the more likely to have relations or friends to provide for? and that, too, by situations which could only be held by natives? The same restrictions are imposed on the magistrate and the collector. If the orders on this head have any proper foundation, there can be but small ground for our boast of superior honesty or morality. But, in truth, it appears to be one of those inconsistencies of which so many are to be found in the British-Indian legislation.

On this subject I should wish to offer a few general remarks. We have heard a good deal lately of the hardship to which the native officers and uncovenanted servants are subject, in being liable to dismissal, at the uncontrolled will of their immediate superiors. There is some appearance of truth in what has been said. The fact, however, is incorrect, as regards most of the offices. On the other hand, where the head of the office is solely made responsible for the conduct of all the proceedings of those connected with his office, it seems but reasonable that those subordinates, for whose behaviour he is responsible, should be made to feel that both the retention of their situations, and their future advancement, must depend on their giving satisfaction to their immediate superior. The first part, the responsibility, is thrown entirely upon the covenanted officers. Should business be in arrears; should complaints be made by parties that their suits are not brought forward in proper turn; should crime increase, and the police become lax; should the revenue not be duly realized; should extortions and oppressions become very prevalent on the part of the court, police, or revenue-officers; should reports and forms not be duly prepared and forwarded; in short, should anything go wrong,—the excuse made by the judge, magistrate, or collector, that his subordinates had

neglected their duty, and had not attended to his orders, would be held to be perfectly inadmissible. He would be told that it was his duty to see that each performed his share; to enforce the performance by fines, reprimands, &c, and, if it seemed advisable, to recommend the dismissal of those in fault. At length he adopts this course, and, perhaps, suspends the offender, and appoints a substitute. What is the consequence? An appeal is, of course, transmitted to the superior court, which is received at the same time with his report. The compliment received by an appeal to one's judgment has, too often, some influence in favour of the person in fault; a suspicion that the inferior officer is actuated by some improper motive, or has been unnecessarily harsh (which is almost incredibly prevalent in India), still further favours his cause; he has very often some relation or friend in the superior court who has the ear of the presiding officer, and speaks a word in his favour; and (though, I grieve to say it, truth must be told,) not unfrequently there is some personal and private pique between the inferior officer and the one to whom the case is referred. The result of these and other causes is, that an order is issued for reinstating the native functionary. The number of instances in which this has occurred would astonish many of my readers; the consequences are lamentable. The restored officer feels himself secure; he knows that, do what he may, the civil officer dare not attempt to punish him, because it would immediately be represented, and the statement most probably believed, that it was done out of spite; and his case serves as an example to others to proceed in the same career of extortion or neglect. In the police-department there is a deviation from the restriction above mentioned. The magistrate is allowed to discharge police-officers, whatever be the amount of their salary, of his own authority; but the order is open to appeal, and is too often reversed, and then followed by the unrestrained plunder and oppression of the people. I could produce several cases to prove this; and this is surely a much greater evil than the other alternative, that an individual should lose his situation on rather insufficient grounds, supposing this to be the case; but after all, it is only the opinion of one man in opposition to that of another

It is unfortunately true, that, in many instances, the civil functionaries have been found to appoint to situations of trust their native creditors or their dependants, who were unfit for the duties they involved; but it is one of the characteristics of the British-Indian government to run into the extreme of supposing that all are likely to make a bad use of their power or patronage. To prevent such abuses, it is proper that the superior authorities should be invested with some control over the appointments made by the subordinates. The best mode of exerting this would be, not only to investigate the reasons for the discharge of any particular officer, but the character and qualifications of the person appointed to his place. Unless these were found deficient, or unless any improper motives could be proved to have actuated the functionary who had appointed him, the order should not be interfered with.

In certain cases, the discharge of a person seems, *primâ facie*, a hardship. He has, perhaps, held his situation for many years, and no fault has been found with him. This may be true enough; but many reasons may be given. It is now perfectly understood, that in every office a considerable portion of the business must be altogether neglected, or but imperfectly performed. Some functionaries attend to one part; some to another. On a new one being appointed to an office, he, perhaps, devotes his attention to that which is most in arrear, and no sooner does he begin, than he finds the records in disorder; papers missing or mislaid, books of forms not filled up; and perhaps many complaints brought forward against the native officer who had charge of that part of the office; all of which had hitherto remained undiscovered, simply because, for a long period, that portion of the business had been unattended to. In another case:—Mr. A. appoints a person who appears intelligent; but it is impossible to say what may be his qualifications as a man of business until he has been tried*. Mr. A. shortly after leaves the office; and it is

* The distance which the majority of the English functionaries maintain with the people, renders them so little acquainted with the characters of applicants for situation, that virtually men are, for the most part, appointed by guess.

some time before his successor begins to be acquainted with the routine of business, and the behaviour and character of those under him. At length he begins to perceive that the lately-appointed subordinate is unfit for his situation; unwillingness to appear harsh, and a dislike to discharge him, and perhaps the difficulty of procuring an efficient substitute, induces the magistrate, collector, &c., to try the effect of reprimands and explanations. In vain,—and at the end, perhaps, of a year or more after his appointment, the subordinate is discharged. An explanation of the real state of the case would, one would suppose, be sufficient, but in too many instances it has not been attended to, and the dismissal attributed to improper motives. In the case of police and revenue-officers, situated at a considerable distance from the head-quarter station, misconduct and oppression may often be practised for a long while without discovery; nay, if a man plays his cards well, he may not unfrequently contrive to acquire an excellent character for efficiency; especially if, as a revenue-officer, he realizes the whole of the Government revenue. This may go on for years, until a new collector makes a tour to that part of the district, and discovers that a system of tyranny and extortion has been practised, which would disgrace the worst annals of Turkish misrule. Being of opinion that the realizing of the Government revenue, or, in other words, the squeezing the last farthing out of the unfortunate people, ought not to be exclusively attended to, to the sacrifice of all justice and humanity, he, perhaps, discharges the revenue-officer, and is immediately reprimanded by the commissioner, for dismissing “one of the most efficient officers in that part of the country.”

Much more might be detailed on this head, but this axiom must strike every one:—If the heads of the different offices are to be exclusively responsible for the conduct of their inferiors, they ought to possess almost uncontrolled power in the appointment and dismissal of the latter: while if it be not deemed proper to invest them with such authority, let the responsibility be shared in due proportion, either by the subordinates themselves, or by the superior functionaries who interfere in the matter. This is no more than common justice.

One circumstance which has tended greatly to lower the British government in the eyes of the people is, the retention of functionaries in office who are notoriously corrupt. Many are perfectly well known to be so; cases are occasionally brought forward against them, which fail "for want of proof," while those accused actually boast of the way in which they have eluded detection! The causes of this are twofold. First, The introduction of English ideas of jurisprudence, in requiring full legal proof, where it is almost impossible to be obtained. Secondly, The great distance which the English functionaries maintain between themselves and the natives, which prevents their having any accurate idea of the feelings and opinions of the latter. As to what is called positive proof of corruption, it is almost out of the question. Is it really imagined, that a man who will accept a bribe is simple enough to do so, before witnesses? that he will not be cunning enough to devise modes for receiving the money privately? So much is this the case, that I do not hesitate to say, that of those positive cases of bribery which are occasionally prosecuted to a conviction, nineteen in twenty are supported by downright perjury, although the bribes may have been given; those who swear to it, depose what is false,—they did not see what they assert. How, then, are such charges to be brought home? By examining a man's general conduct, and by taking the opinion of the majority of the most respectable people as to his character. Were these tests properly applied and acted on, we should soon cease to be liable to the reproach which is now attached to us. To consider the first :—An individual is accused of being in the habit of taking bribes. Is he a moonsiff or sudder ameen? Inspect carefully his proceedings, and bring forward the parties for a little cross-examination. There will be found marks of haste in the decision of certain cases; facilities given to one party, and difficulties thrown in the way of the others, and others of a similar nature. Is he a vakeel (lawyer of the court)? It may be observed that the majority of his clients are the dishonest parties, while the respectable people avoid employing him; that he is usually employed on that side in which, from the proceedings, there is evidently good ground for suspicion of mal-practices, &c. Is he

a revenue-officer (tuhseeldar)? Apply the test, and you will find harsh measures adopted towards some, leniency towards others, incorrect representations in cases referred for report, *mistakes* in the measurement of land, partiality in settling disputes, &c. Is he a police-officer? The same suspicious circumstances will appear. Cases of affray and theft will be found to have been hushed up; others to have been softened down, so as to appear insignificant; the use of his authority will be found to have been lent to enforce a doubtful claim; and so on with officers of the court, and all other officials. In short, apply this test *properly*, and it will rarely fail; yet in not one of the cases will it be possible to procure positive proof of a bribe having been given. Nay, more,—it will, perhaps, appear that every case had been duly entered into the register-books, or specially reported to the superior; so as to leave the suspected person free from the imputation of having concealed what ought to have been disclosed. But it will have been done in such a way, that if the official reports alone are trusted to, little or nothing will exist to excite suspicion; but when closely examined, and confronted with the parties concerned, the truth will, without much difficulty, appear. It is probable enough that an insulated case of the above nature might be found against almost any public officer, arising either from error of judgment or inadvertence, caused by the great pressure of business; but it is hardly possible that the occurrence of many such against the same person can exist without some other cause. Here, then, is very good presumptive evidence to support a charge of bribery, or, on the other hand, to constitute ample proof of inefficiency. In such a case, the person in question should at once be discharged, but this has usually been opposed, and legal proof been called for. The truth is, that hitherto both the Government and its functionaries have been rather averse to bring forward these matters. The former are aware that the exposure would bring odium on that system which has so repeatedly been pronounced so excellent, and such a blessing to the people, and the latter do not like the extra trouble which it would entail on them.

But the second point, if properly carried on in practice, and

care is taken to prevent its abuse, would enable us with certainty to distinguish the rogues from the honest men among those whom we employ. We have, it is true, the old saying, "Common fame is a liar," but it does not apply in this case. I could hardly mention anything more correct than the general appreciation of the character of public officers by the natives of India; and I will venture to say that no official person ever obtained from them undeservedly a *general* character either for good or evil; for honesty or corruption; for efficiency or the contrary. The cause of it lies in the extraordinary freedom with which the people of India speak of their concerns, both public and private, among themselves, or to any one to whom they can express themselves without reserve. "The English functionaries know nothing of all this, because they keep aloof from the people, but it cannot be concealed from the Indian public,"—a humiliating remark, which I once before observed I had frequently heard. A native carries an improper point by illegal means. No sooner does he return home, than it is mentioned freely among his relations and friends; perhaps boasted of. Should one of these have a similar point to carry, he tells him, "Make such an arrangement with such a one: he will manage your business." This is one of the modes by which the characters of their superiors become known, and the other is, the intimate acquaintance with the real merits of a case possessed by those who reside near the spot where the occurrence took place, which never reaches the civil functionary*.

Few can be aware how much the character of our Government and its functionaries suffer, in consequence of the principles on which they act in these matters, or of the comparisons which are made, to the disadvantage of the former, between the British and native governments. Often have I heard the remark, "Under our former rulers, such a man would have been dismissed in disgrace long ago, for his notorious corruption, but, unfortunately for us, the British system is different." Another evil of great magnitude

* I have known a most atrocious murder to be committed, in which several people were killed; yet, relying on the above mode of conduct, the murderers have contrived to persuade the magistrate that it was an affray, and that several of their own party had been killed.

is, that our officers too often gain the credit of sharing in the speculation. The question is often asked, "What can be the reason, then, of supporting a man whose conduct is notorious?" This, I am aware, is an unpalatable statement, but truth obliges me to make it. Latterly, however, I rejoice to see a new state of things introduced. In the selection of people for the situations of subordinate judicial officers and deputy-collectors, *general character* is to be the main point of inquiry, and has already produced beneficial results. I could instance a district in which, on the introduction of the new system, the opportunity was taken to discharge a sudder ameen, who had borne a character for notorious corruption. The people almost held a jubilee, on the occasion, from delight and astonishment, and the conduct of the judge was lauded to the skies. "This," they said, "is truly a new era; we are now delivered from one whose extortions and injustice we had resigned ourselves to bear, so long as it should please God to spare his life and inflict him upon us."—"Why, then, did you not come forward in a body before now, and proclaim his character to the judge?"—"We know the English system; we should have been required to bring forward legal proof; the consequence would have been, that he would have escaped, and we should have been marked out for vengeance: we told the judge privately, and we thank God for the result. *Now*, if he wishes it, we would without hesitation publicly sign our names to what we before disclosed in secret, with fear and trembling."

Let the same tests be applied to the character and qualifications of the covenanted officers; the results will be equally beneficial. One important step has been adopted; the reports by the superiors regarding the subordinates, are in future to be made officially. It is to be hoped that this will be followed by another; viz., to furnish those whom it may concern with a copy of the report of their conduct, that they may have an opportunity of defending themselves from unjust aspersions, and to offer any explanation they may think proper. It remains to be seen whether the private reports are to be discontinued; at least the public are unacquainted with any order to this effect, should any such have been issued,

The next point to which I would invite attention is, the extraordinary inconsistency in the extent of powers granted to the Hindu and Muhammedan law-officers. Ever since the appointment of commissioners of circuit in 1829, and latterly of sessions' judges, the Muhammedan law-officer of the district in which the sessions were held, was appointed to attend the commissioner or judge who presided at the trials. In these courts, the highest offences (murder, &c) are tried; and in cases of highway-robbery, gang-robbery, or, with some few exceptions, any in which the punishment was not more than fourteen years' imprisonment in irons and labour, the court was empowered to pass sentence at once. The law-officer sits as assessor, and first delivers his opinion as to the guilt or innocence of the prisoner, according to the principles of the Muhammedan law. Should the judge agree with him, sentence is at once passed. This is no light power that is vested in the law-officer, and although the Sudder Nizamut* might altogether set aside the opinions (*fatwa*) both of the district law-officer and that of their own court, yet his judgment was, and still is, considered of such importance, that in the event of the sessions' judge or court disagreeing with him, the case must be referred to the superior court. Indeed, with an indolent judge, the opinion of the law-officer often formed *virtually* the sentence of the court; for cases might be adduced, in which an unwillingness to take the trouble of a reference would induce the judge to agree with the lawyer in a doubtful case.

In each district, there were one or more officers called *sudder ameens*; these were subordinate civil judges, who decided cases to a small amount of value, not exceeding five hundred rupees. They were also empowered to hear petty police-cases, in which the punishment awarded did not exceed one month's imprisonment and thirty stripes. They were even prohibited from being employed in making any inquiry for the purpose of report to the magistrate in any case of a more serious nature. (See circular orders, Sudder Nizamut, January 8th, 1830.)

In each district there was a Muhammedan and Hindu law-officer, to whom the judge was authorized to refer the most difficult

* Chief Criminal Court.

points in cases of disputed succession, inheritance, &c., which might arise in suits before himself, even to an amount of ten thousand rupees : and in these, unless on proof being adduced of corruption, the report of the law-officer almost invariably formed the basis of the decision.

Is it not a strange anomaly, that the officer who sat as sole assessor on criminal trials of the highest nature, and whose opinion often had such weight ; that the sudder ameen, who was only considered qualified to decide civil cases of trivial amount ; that the officer, who was deemed competent to pass sentence only in the most petty police cases, and that the district law-officer, who virtually decided civil suits of the most complicated nature to a very large amount, were almost invariably one and the same person ?

While on the subject of the sessions, there is another still more striking inconsistency deserving of notice. The sessions' judge is, by the late regulations and circular orders, empowered either to summon a jury or to require the attendance of the law-officer as an assessor, entirely at his own discretion. If he summon a jury, he may in all cases in which he is at any time vested with authority to pass sentence, entirely set aside the verdict of the jury, and at once pass sentence as prescribed by the regulations, according to the nature of the crime. If he call in the law-officer as assessor, should he differ in opinion from him, he *must* refer the trial to the superior court*.

The same anomalous and indecisive system obtains in police matters,—to which, however, I shall advert more fully in the paper devoted to police affairs, and shall here only summarily allude to the following abuses, which the want of some local authority engenders.

In every market-town in the upper provinces, there are gangs of self-constituted weighmen, chokedars, heads of markets, and a variety of other people, who interfere with the dealers and farmers in a most vexatious manner, and whose sole livelihood is derived

* This invidious distinction tends to make the system of juries unpopular with the people : those summoned as jurors naturally observe that it is need- less for them to lose their time, as long as their verdict is not deemed of any value.

from illegal fees and exactions which they levy from the people. Still worse, in almost every large town in Upper India, there are gangs of scoundrels who make a living by going about the streets and markets to pick quarrels with respectable people, and then extort money from the latter by threatening to lodge a complaint in the magistrate's office, (which, it is well known, they have always witnesses ready to attest,) and procuring a summons against them. The loss of time which would be occasioned by a journey of from twenty to a hundred miles, besides the detention at the magistrate's office, to say nothing of the slur upon their character, which is caused by being implicated in any way with these rascals, generally induces the respectable portion of the community to comply with such demands. Is it not disgraceful that there should be no local authority to check such intolerable abuses? and is it not an extraordinary circumstance, that police-officers, who, in other cases, are allowed to exercise far greater powers than an English justice of the peace, should be prohibited from interfering in such matters? As to any protection which the magistrate can afford, it is a farce to talk of it; the distance, and the overplus of business with which he is oppressed, prevent his paying proper attention to such complaints when they are made; but the delay and expense attendant on such a course, together with the great uncertainty of the issue, or, more properly speaking, the great certainty of its being in favour of the scoundrels, render any attempt to obtain redress very rare. If such were attainable, these abuses would speedily cease to exist; and I am not speaking of mere insulated occurrences, but of matters which are carried on as regularly as any trade; and that, too, in some places, with as much impunity within a mile of the magistrate's office, as at the farthest extremity of the district. It is very easy to talk of exaggeration; but all these statements would be easily verified beyond dispute, if Government really wished to ascertain the truth, and give due justice to the people,—a commodity they have in vain sought for hitherto, under the British administration. If English settlers become numerous in the interior, the proofs of these assertions will rise up with a voice of thunder:

I shall now, in conclusion, advert to a few miscellaneous points, in further illustration of the subject of this paper.

When a collector makes a report to the Board or commissioner, he is ordered, in addition to his Persian proceedings, to transmit an English letter on the subject. What can be the reason of this extra labour and trouble? If the former clearly express the meaning of the collector, and be understood by the commissioners, what object does the English letter serve? For it does not obviate the necessity of the Persian proceeding, that being required for the information of the native officials who do not understand English. The truth is, that the very slight knowledge of Persian possessed, not only by the English civilians, but by the natives in the offices*, is insufficient to enable them to communicate any intricate business to each other, so clearly, as to prevent the chance of mistakes. Hence the necessity for an English letter. Is not this another reason for the abolition of the Persian language in our courts; and the substitution of either English or that of the country—Hindoostanee? But even here we have one of the British-Indian inconsistencies. In submitting any proceeding to the Boards of Commissioners of Revenue, the judges as well as the collectors are ordered to forward an English letter, besides the Persian communication. Yet in their communications relating to any case before the court with the Sudder Dewanee†, the subordinate judges are prohibited from corresponding in English. Is this difference caused by the revenue-officers being supposed to be worse linguists than those in the judicial line? or is it because Government wishes to appear to have business conducted openly in the judicial branch; while in the revenue-department they are sensible that there is much which they would wish to conceal from the natives? The reason of the difference is worth knowing.

* I have before alluded to the very slight knowledge of Persian which the generality of the civil functionaries possess, which a test would prove. That of the majority of the native officers is not of a very much higher quality. The jargon called Persian,

which is used in our courts, is much on a par with the Latin and French law reports ridiculed by Swift. A native of Persia would find it difficult to understand one of our court proceedings

† Chief Civil Court.

Again, when the Sudder Dewanee sends any orders to a judge, or a judge to a collector, it is written in Persian, and accompanied by an English receipt, (in *official Persian* "Pureesut,") containing these words, and no more: "Herewith you will receive a proceeding of the court, of this date, to the tenour of which you are directed to comply within —— days, or good and sufficient reason to be shown of the cause of the delay." And when the order is obeyed, and a report in Persian is made to the court to that effect, it is accompanied by the precept endorsed to this effect: "The precept of the court is herewith returned duly performed." The only object gained by this is, the waste of half a sheet of English paper, with every order of the court. The origin of the ordinance was probably the idea of a little scrap of dignity, borrowed from some antiquated form of English law. It is strange that, in these days of retrenchment, the saving in stationery which would be caused by discontinuing the practice, has eluded the penetration of the present Government*.

Among other illustrations which might be adduced without number, of the mode in which regulations have been promulgated, without a thought being bestowed as to their execution, is the following original distribution of the business between the judge and the registrar. The former was to perform the duties of his station in issuing orders and deciding causes; and when the *court rose*, then followed that of the registrar; to inspect documents,

* The saving would probably amount to between twenty and thirty rupees per annum. Should the Sudder Court display a little more activity than they have hitherto done, it may amount to a little more. This is well worth the consideration of the present Governor-General, who doubtless has constantly in mind the old saw, "A pin a day is a groat a year." I will furnish an estimate which would have been worthy of the late Financial Committee. Four orders per month to each civil judge, will give about two quires of paper for the whole; at eight annas per quire, twenty-four rupees per annum. On this subject I recollect a ludicrous occurrence some years ago. A circular was sent to all offices, ordering economy in stationery. Government should have "looked at home;" the Secretaries' offices are notorious for the "wasteful expenditure" of that article. The order in question furnished a notable example: the amount of writing which would in private correspondence have been contained in a sheet of note-paper, filled a sheet of *foo scrap*! In particular I remember the word "consideration" was made to occupy an entire line. It is fortunate that papering rooms is not the custom of India, or the secretaries might have then private houses new done every two years, and charge it as stationery to the offices. This was a practice known in England not very long ago.

file the suits, sign papers, &c.; while the judge, in return, was to inspect the work of the registrar, and see that it was properly done. (See Regulation III. of 1803, and others) All this sounds well. All that was wanted was, that the provisions should be properly enforced ; but instead of, as one would suppose, the business occupying a few hours per day, each of these officers was labouring to the extent of his power, from morning till night, in hearing complaints and deciding causes ; and even then could not nearly perform all that was allotted to him.

Another may be taken from the regulations for the registry of deeds. Certain hours were to be set apart for this especial duty, as if the enormous pressure of business admitted of any other mode of attempting to execute it than by taking up any portion, at random, as chance, or the bribes which had been given to the native officers, might direct, and scrambling through it in the best way the registrar was able. To crown the whole, the judge was ordered to countersign every entry in the registry. One might imagine by this, that he was expected to look over the different books, and ascertain that all was correct ; but no judge ever dreamed of doing this,—there was much more pressing business on hand,—and the practice was, to countersign all the deeds registered in the interval once a month, as fast as he could write his signature, and the record-officer turn over the pages ; this must for the last thirty years have been well known to the members of Government, and the judges of the supreme courts, seeing that many of them have in their time filled the office of district judge, and performed the work in the above-mentioned manner, yet the farce of countersigning is still kept up.

Of the numerous examples of sweeping orders passed on occasions of particular abuse, I will produce three, as matter not only of absurdity, but of a wise feature. Some years ago, an instance or two occurred of a convict having been inadvertently detained in jail, beyond the period of his sentence. Where did the fault lie ? Either in the particular magistrate in whose jurisdiction it took place ; or in his subordinates ; or in both. The magistrate ought to visit the jail, and all working parties of convicts at the station, at least once in two or three days. Every

convict knows well the period of his imprisonment ; and it is but natural to suppose, that the one in question would have represented his case, on the visit of the magistrate. The latter had merely to ask his name, and immediately order the accuracy of his statement to be investigated ; but it may have happened, that the individual may have been one of a gang at a distance from the station, in which case the blame would attach solely to the officers of the jail, for not having duly inspected the convict-registers, and sent the man to court to be released. The obvious course would have been, to have inquired into that particular case, and punished the person in fault ; and even, if such were thought necessary, to publish the case by a circular order, by way of caution to the different magistrates. But what was the proceeding of Government ? actually to order that every convict sentenced by the court of circuit should be furnished with a certificate in English of the term of his imprisonment. Now if it should so happen that any convict should be ignorant of the period for which he was confined, of what use could be a certificate in a language which no one to whom he had access was able to explain ? If the magistrate neglected to visit the convicts, or to listen to anything they might have to represent, of what use could the English certificate be ? Lastly, if the jail-officers neglected, on the expiration of the term, to send up the convict for release, or to attend to his remonstrances, the existence of the certificate in his possession would not be likely to cause them so to do.

The second is this. On one occasion an English officer sold some property, to a large amount, to a native. Government chose to consider that the officer had behaved unfairly, and a general order was issued, prohibiting, without the sanction of Government, the sale, by any English functionary to a native, of any property above a certain amount,

The third is the order against receipt of presents, which is carried to such an extreme length, that a native who has a garden, is prohibited sending a few fruits or vegetables to any English Government-functionary who may be travelling past his residence : this very item is particularized in the order.

Would it not have been more just to have brought forward the

particular instances of abuse which produced these orders, and to have punished the parties concerned who were in fault, instead of casting a slur upon the whole of the civil and military officers? If there be any justice or any proper grounds for such sweeping orders, what can we say to the so-often-vaunted protection from extortion, and the blessings which the natives enjoy under British authority? Or what must be the general character of the English, who compose the members of the British-Indian administration? The reason given is, that some functionaries, under cover of such pretences, took bribes. The existence of such orders is, however, a strong proof of the arbitrary nature of our government, and how completely the natives can be made subservient to the English.

One illustration of inconsistency further shall conclude this number. By Regulation XII. 1825, the rattan is ordered to be substituted for the korah, in the infliction of stripes, and by circular orders, August, 18, 1826, whenever stripes form part of the sentence of a sessions' judge, before infliction the surgeon is still ordered to examine always the person sentenced to corporal punishment, and certify his capability to bear it; which was the case when stripes were inflicted by the korah. This course must be followed, whatever be the number of stripes ordered by the circuit judge; yet the sentence of the magistrate is at once carried into effect, to the full amount of thirty stripes, without any such examination by the surgeon, unless the prisoner should assert that he is unwell*.

The foregoing are only a tithe of what might be mentioned in illustration of the subject of this paper. Is there not, however, sufficient to prove the inconsiderate manner in which regulations

* Since this was printed, flogging for civil offences has been abolished by Regulation II. of 1834; and periods of imprisonment substituted at the following rates:—

For the thirty-nine stripes which might be inflicted by order of a sessions judge—two years.

For the thirty stripes which might be inflicted by order of a magistrate—one year.

For the thirty stripes which might be inflicted by order of an assistant—one month.

The various values of the same number of stripes inflicted by different officers (the flogger was the same in all cases) is another of the absurd and unmeaning anomalies of the British-Indian government.

are enacted, patchwork expedients adopted, and orders issued, without any fixed or general principles? It is high time that those whose duty it is, should adopt some remedy, and enact a code of laws on an intelligent and consistent foundation, so framed as to enable the people easily to acquire a knowledge of the rules under each head of legislation: and so shaped as to admit of systematic alteration and revision, as future times and circumstances shall prove to be expedient.

February, 1834.

No. XXVIII.

ON THE FUTURE INTERNAL GOVERNMENT OF BRITISH INDIA.

THE new charter has now become law; and the time draws near, when it will be promulgated and carried into execution. Considering the magnitude of the interests at stake, at least as regards the people of India, it is incumbent on us to examine its provisions, and endeavour to ascertain what the result may be. The inquiry would resolve itself into two heads,—the general superintendence of the government of India, as existing in the authorities at home, and the internal administration by the local powers here. On the former, it is needless now to descant. It has been well described in a late number of the *Westminster Review*; and, whatever be its faults or excellencies, its existence, in its present constitution, has received the sanction of the legislature for a further period of twenty years. One characteristic has, however, been strongly manifested in the late discussions in the Parliament, and in the Court of Proprietors; namely, the disgusting selfishness of all the parties concerned. The one, the public at large, had for its object the opening of the China trade: the other, to secure the regular payment of their dividends; while the ministry have been tacking and trimming between them, willing to do anything that should please both, and gain a little popularity.

It is lamentable to see the utter indifference displayed by all, to the welfare of a hundred millions of people. Some of the speakers even openly avowed that, in their opinion, it was a minor object, compared to the profits of a few English merchants. Provided each party could gain its own selfish and short-sighted objects, the government of India was thrown into the bargain, with as much indifference as if the people in question had been a herd of cattle. All parties will, ere long, find out how egregiously they have been mistaken, and how completely they have contrived to deceive themselves. With respect to the China trade, it is probable that some slight increase will take place; but as for supposing that it will afford any sensible relief generally to the late and present commercial distress in England, those who have any knowledge on the subject, treat the idea as chimerical; and as to the dividends, if their payment is to rest on no more solid foundation than the territorial revenue of India, we shall, ere long, witness an East Indian bubble, which will rival that of the South Seas. It is utterly impossible that our Indian possessions can bear the burden, in addition to those under which they at present groan,—yet such appears to be the intention of the legislature. Oppressed as the people are by a system under which real justice is unknown, and impoverished by constant exactions hardly to be paralleled in any country, it is physically impossible that they can or will bear any more. Exemplary patience and resignation under oppression, is certainly one of the virtues of the people of India, but there is a point at which the ball must rebound, and the government which shall attempt to exact any more than the existing revenue, may, without the gift of prophecy, easily number the days of its duration.

On this head, however, we need not be under much apprehension. The members of Government cannot be so ignorant of the real state of affairs, as to make any such attempt; and all parties will, ere long, be made sensible that the payment of the dividends must be sacrificed, in order to preserve our Indian dominions. All other home disbursements, such as salaries of the Directors, and others connected with the Government, will, of course, share the

fate of the dividends; and it is probable that, ere long, the patronage which they enjoy will be their only emolument; or if this be diminished to such a degree as to render it an insufficient inducement to undergo the fatigues of office, in consequence of the extended employment of natives of the country, we may fully anticipate the abolition of the whole existing machinery of the home-government of India before the expiration of the new charter, and that the affairs of the country will be under the direction of a Secretary of State. All pensions of retired officers, both civil and military, must of necessity be annihilated; a miserable conclusion to the career of those who, after having spent the best years of their lives in labouring under an Indian sun, have retired to conclude their remaining years with their friends and families in England. Still it will cause a less amount of evil than would inevitably result from the sudden overthrow of the British power in India. Those who are on the point of retiring with little else but their pension to support them, should think twice before they take an irrevocable step; and wait to see how far the above prognostications will prove correct, before they adopt a course which will most probably end in rendering them completely destitute, when no longer able to exert themselves to procure a livelihood*.

These are the prospects which have produced an expenditure of some twenty thousand rupees in the celebration of their appearance†. We can hardly suppose that Lord William Bentinck would have ventured on such an outlay, to so useless and ridiculous a purpose, unless he had received instructions from home to that effect, and (for some of the Directors at least must have been acquainted with the real state of affairs,) they were probably issued

* The apprehension is not without grounds. Sec. 17 of the new Act provides for the payment of the dividends in preference to any other charges; and we may perceive how strong the apprehension of the inability of the revenue to meet these demands must be in the minds of the framers of the Act, by sec. 15, which gives authority to the Commissioners to borrow money to pay the

dividends. Our only hope is that these will ultimately be charged on the revenue of England; and then there may be a chance of the pensions being regularly paid.

† The natives were aware of the discussions which were going on in England: in order to make it appear that the East India Company had gained their point, a grand display of fireworks was exhibited in Calcutta.

in the spirit which prompts a ruined merchant to give a grand entertainment on the eve of his bankruptcy, to keep up appearances to the last. Had the sum been expended in building or endowing a College; in a remission of revenue; or even in feeding for a few days some of the starving thousands who are wandering over the country, there would have been something to boast of in the last display which will probably be made by the merchant princes of India. But it is gone, like the forerunner of their downfall, which will speedily follow. In the language of the natives who witnessed it, "It blazed up like the thorns, and has died away; but the smell thereof remaineth in our nostrils."

But the point under consideration is the provision made for the administration of the internal affairs of India: and here we have certainly the vision of more cheering prospects than have hitherto existed. The main features are the following:

1st. The Governor, with a council of four, is to be the ruling power of all India.

2nd. There are to be three subordinate Governors, with or without councils, as experience may demonstrate to be expedient.

3rd. The Governor-General is to be guided by not less than three councillors in framing laws.

4th. For ordinary occasions, one councillor to assist the Governor-General is to be sufficient.

5th. On extraordinary occasions, the Governor General is to have power to act in opposition to his council.

6th. Natural born British subjects are to have free ingress and egress into certain parts of the British-Indian territory, and to be allowed to acquire any rights or property therein, subject to the laws of the country, but to no arbitrary rules.

7th. No native or natural born British subject to be disabled by reason only of his religion, place of birth, descent, colour, or any of them, from holding any place, office, or employment under the Governments.

8th. The Governor-General in council to be empowered to make laws for all courts.

9th. The establishment of a Law Commission, to inquire into the subject, and propose a systematic rule.

On each of which heads I shall proceed to offer a few remarks.

On the first and second, with three local Governors, and a superior with a council to superintend the affairs of all India, it stands to reason, that, provided each party only pays as much attention to his duty as has hitherto been the custom, the interests of the country must be better attended to than formerly. The political and other general arrangements of the British government will be placed under the supreme authority. This will produce one consistent mode of regulation, which will greatly conduce to the stability of our empire; and we shall no longer run the risk of falling into the confusion caused by the presidency of Bombay, or Madras, forming a treaty with a native Government, while that of Calcutta was concluding one of an opposite nature. The subordinate presidencies will be enabled to give their undivided time and attention to the local details of their respective Governments, and will have leisure to suggest matured plans of improvement for the consideration of the supreme power, whose time has hitherto been too much occupied with points of minor importance, to allow them to give that enlarged and statesman-like deliberation to matters of superior importance, which is requisite to ensure a proper decision.

On the fourth and fifth, it is to be observed, first, that with the exception of the general supervision of the Bombay and Madras presidencies, which, with an additional subordinate government, he may now be supposed to have leisure to do, the power of the Governor-General is not greater than it was before. If one of the three members of council coincided with him in opinion, his casting vote enabled him to carry any measure he pleased. Secondly, that for more than the last fifty years, the Governor-General has had authority, on extraordinary occasions, to act independently of, or in opposition to, the opinion of his council. This is undoubtedly an immense power to be vested in one man, and it is to be hoped that the day will ere long arrive, when it shall be neither necessary nor tolerated; but at the present moment I fear that it is still indispensable. The peculiar nature of the British-Indian dominion, acquired in turn by fraud, conquest, or negotiation, dictated by overwhelming military force,—existing in opposition

to the wishes of by far the majority of the people,—and supported chiefly by our native soldiery, an arm which may be either the means of strength, or the cause of our downfall*, requires that there should be some supreme dictator to issue his fiat on occasions of peculiar emergency. Our empire is not more stable now, (whatever superficial observers may think,) than it was in the time of Warren Hastings; indeed, it is probable that the seeds of disaffection are much more thickly scattered than in his days, and the perusal of the history of that period will show that, for want of such a power, the country was upon the very verge of being plunged into civil war, from the disgraceful and factious dissensions between the Governor-General and his council.

What might have been the issue then, is not very problematical, but were such a crisis now to arise, the English name would, in a very short time, be annihilated. The power, however, must be exercised under the very greatest responsibility, and the extreme vigilance of the press should in the first instance be exerted, to analyze every instance of its exertion, and the home-authorities should preserve the most vigorous control, and carry on the strictest examination into every case in which it may be put in practice. The existence of a body of English settlers, delivered from the dread of transportation without trial, will greatly tend to establish this desirable object. In one of the minor points, the patronage which is to be exercised respectively between the Governor-General and the local governors, the Court of Directors are very properly allowed to dictate the division which is to be made. It should be regulated so as not to give too much power to the former, and prevent the latter from being reduced to mere organs for carrying his will into effect. Perhaps the most expedient plan would be to vest in the Governor-General in council the appointment of all the superior officers; the judges of the Sudder Dewanee and Nizamut Adalut; the members of all the boards in each of the presidencies, on the recommendation of the subordinate governors: while the latter should enjoy the patronage of all inferior appointments, for they will undoubtedly possess the

* See the observations of Sir Charles Metcalfe, in his Minute of 18th October, 1832.

best means of knowing the qualifications of those immediately subject to their authority. Some similar distribution of the military staff appointments will naturally suggest itself. The whole of the political relations should rest with the Governor-General. But this is merely *en passant*,—for the Court of Directors will, like most who have the power to do so, act according to their own discretion. Some positive and defined rules, however, will be absolutely necessary, to obviate the clashing of authority, and the jealousies which will otherwise exist, as well as to prevent any Governor-General, who may be too fond of power, from usurping too much.

The third, eighth, and ninth points may be considered together. The establishment of one uniform system of law, founded on justice, common sense, and the established customs of the country, so arranged as to suit all classes; so classed, as to allow easily of alteration and revision from time to time; and so worded, as to be within the comprehension of people of moderate capacities,—the establishment of such a code will, indeed, be the land-mark of a new era in the British-Indian legislature, and will call forth the gratitude of the whole people. This point is one of primary importance, and must necessarily first occupy the serious attention of Government. The monstrous system which now exists cannot be any longer tolerated. We have one set of regulations to which the natives are subject; there is a nondescript set of rules of guidance to which Europeans are amenable, which are, in fact, virtually impracticable; and the consequence is, that in some cases the natives are ill-treated by the European settlers, and in turn cheat and defraud the latter, neither party being able to obtain any real redress. The East Indians, again, fluctuate between the two classes, being sometimes treated as European British subjects, sometimes as natives. The same uncertainty exists in the courts of law and police. There is one for natives, another for Europeans. In some points the Europeans are subject to the local courts; in others not. Some magistrates possess the powers of a justice of the peace; others are not invested with such authority. The local courts are supreme in some cases, in others they have no power; while the Supreme Court has hitherto systematically

taken every opportunity to evince the contempt which it entertains for them, and to set at nought their proceedings, to the utter ruin of justice, in order to *keep up the dignity* of English law and of *King's judges*.

It will no doubt be a work of considerable difficulty, requiring much labour, talent, research, and tact, to devise a system which shall provide for the wants of such a mixture of different races ; nevertheless, if entered into on an enlightened and systematic plan, it will not be such an herculean task as might at first appear : and, whatever be the difficulty, it must be done, and that, too, speedily, to prevent the most insupportable evils to the whole community, and obviate the most serious embarrassments to Government.

The subject will resolve itself into two distinct branches. The first comprising that portion of the law whose provisions will be common to all ; and the second, that portion which will be peculiar to each class or sect, as the laws of inheritance, succession, marriage, dower, slavery, caste, &c. ; each of which must be a separate head.

Under the first head will be the forms and procedure of the local courts ; the laws regarding sales, mortgages, masters and servants, loans and debts, mercantile transactions, insolvent and bankrupt laws, and some others. Under this head will also be classed the criminal law, and the police regulations.

The second sufficiently speaks for itself : each head must be so devised and arranged as to meet the wants, and agree with the customs, of that class for which it is intended to legislate. It is to be hoped that some better provision will be made for the guidance of those who are to administer the laws, than has hitherto existed. Our Hindu and Moosulman subjects are professedly allowed to enjoy their own laws in these points : but what has been the strange system adopted to secure the proper administration of this enactment ? The situations of judge and magistrate are filled by a succession of young men, annually sent from England, all of whom are, at the beginning of their career, totally ignorant of the manners, customs, laws, and language of the people. Their time is sufficiently occupied in learning the

language, the routine of business, the regulations of the British-Indian government, and the current duties of their situations. The latter, indeed, are so absorbing, that little time is left to acquire the other three. They cannot possibly have any leisure to devote to the study of the laws of the people in their original languages; particularly as those in which the laws are written are, for the most part, different from those in common use. This our Government has been well aware of, and it might have been expected that, in such an extraordinary case, its first care would have been to have caused a compilation in English of the chief points of the Hindu and Moosulman law, and distributed the same to the different courts. To this day nothing of the sort has been done; and the expedient devised was, to appoint to each court a Hindu and a Moosulman law-officer, who, on each point of difficulty submitted to him, was to deliver his opinion, (respectively, *bebusta* and *futwa*,) on which the decision was to be founded. The salaries of these officers were fixed on the same miserable scale which our greediness of revenue has prescribed for the whole of the native establishments in our employ; and, although they were subject to an examination before they received their appointments, no provision was made for any regular system of education. All the opportunity they had to qualify them for their situation was by attending a college: legal practice they had none. The consequence has unavoidably been, that the opinions which have been laid down in various respective cases in the different courts, contain as great a variety, and as opposite dicta, as the greatest lover of contradiction could wish to behold.

Let us illustrate it by the *argumentum ad hominem*. Suppose that our laws were written partly in Greek, Latin, and good French, and that the business in the courts established by our supposed African governors was carried on in Norman-French; that they had as little acquaintance with our manners, customs, laws, and the language in which the latter were written, as we possess of those of the natives of India; and that to guide the succession of inexperienced African lads who were from time to time appointed to preside in the courts, an English law-officer, whose sole education was having attended a course of law-lectures,

was appointed on a low salary to each court, whose opinion virtually formed the decision on the most abstruse points of English law. This is no exaggerated statement; it is precisely a parallel case. *What would be* our chance of obtaining justice? and what *would not be* the irreconcilable contradictions in the different decisions which would obtain?

It is true that some translations have been made into English of books of native law, and some glossaries or summaries been published, (W. H. Macnaughten's "Hindu Law," and "Muhammedan Law," for example, and excellent works they are,) and the Government have distributed copies of some of them to the different courts of justice: but the fault is, that even these have not been declared to be *authority*; and a judge who is at the pains to study them, and decide according to the examples he may there find, is liable to have his decision reversed by a non-descript "opinion" given by the law-officer of the superior court.

The formation of a compendium in the English language of the provisions of the English, Hindu, and Muhammedan law, on each of the heads above alluded to, and the publication of it *by authority*, is one of the first points to which the attention of Government should be directed; and it would be a still further blessing to the people, if, when completed, translations were made of it into the vernacular languages of the country*. There is no reason to defer the execution of this, in expectation of the report of the law-commission, whose observations will, in the first place, be chiefly of a general nature; besides, whatever be the arrangement of that part of the code which will be common to all classes, it is indispensable that each must have its own distinct code respecting those points which concern itself alone. Moreover, as it will be almost impossible to find any set of men who would be sufficiently acquainted with the laws of the three above-named classes, the commission (should there be only one) must be so numerous as to comprise men qualified to arrange each department, and it will in reality be divided into as many distinct

* This is peculiarly requisite, when we consider the vakeels (practising lawyers) of the courts are all natives of the country, unacquainted with English: and that, for many years, the majority will be of the same class.

branches, each of which will be investigating and consolidating laws perfectly independent of each other.

One of the best provisions of the new Act is that which places the Supreme Court under the control of the Government of the country. This opinion will, I know, not meet the concurrence of many of my readers. Those not in the service of Government, particularly the mercantile class, and especially the great mercantile aristocracy of Calcutta, have always wished to uphold the Supreme Court. Their feelings towards that establishment are, however, a curious medley: as far as themselves are concerned, it was the object of every one of them to avoid having any transaction with the court. Bitter complaints were made of the expense of every proceeding connected with it, and not a few of the injustice of its decisions, by the very men who yet view its existence with satisfaction. The reason of this apparent inconsistency is, that the Supreme Court is considered, by those alluded to, as an authority opposed to the government of the East India Company, and as a check to the exertion of arbitrary power on the part of Government. Were this the fact, there would be some reason for wishing to retain so expensive an institution. But it is probable that its greatest admirers will find this a difficult point to prove. Every check should, no doubt, be devised to prevent the abuse of authority; still it would appear rather an anomalous mode of proceeding to attempt to do this by the establishment of a court independent of the Government of the country; especially when we consider the effect which such a measure would have to lower the dignity of the Government in the eyes of the natives. This was, doubtless, the ostensible reason for the original institution of the court in question; but had it been the real and sole object, a far better plan might have been adopted by the British Parliament. The obvious and simple course to have pursued was this: If the Government possessed too unlimited and irresponsible power, let it be curtailed, and proper restrictions imposed; if any individual governor were guilty of oppressions, he should have been recalled, and provision made for his condemnation at home. This would have been a far more just and rational mode of proceeding than

to vest the government of the country with arbitrary power, and, at the same time, appoint a court with a view of controlling its undue exercise: but even if this had been the intention, it was found that the undue exercise of arbitrary power on the part of the protecting court, was a far more intolerable evil than that which it was professedly intended to check, and not only productive of the greatest injustice, but actually, in practice, tended to the subversion of the government of the country, so that, in 1782, a bill was passed, expressly exempting from its jurisdiction the Governor-General in council; all matters of revenue; and all zemindars, and other native farmers and collectors of the revenue. If examples of undue exercise of arbitrary power be wanted, they will be found in the proceedings of the Supreme Court, a hundred-fold more numerous than any that can be adduced as emanating from the British government, of which sufficient details are recorded in Mill, which were alluded to in No. XXIV. of these papers. The real cause of the establishment of the Court was, to provide, at the expense of the Company, some patronage for British ministers, and not any philanthropic views of protection for the natives, or any other class. Every friend to justice would wish to see proper checks and responsibility imposed on their rulers; but I cannot subscribe to the opinion that this will be effected in India by the introduction (at ten times the expense of the local courts,) of a court of English law, which has been too much framed at the expense of justice, for the benefit of lawyers in one respect, and rogues in another.

But if protection against oppression be sought, will any one undertake to point out wherein it was to be obtained from the Supreme Court, in those cases in which the natives or English mercantile class really require it? Can that court interfere to lessen the intolerable burden of taxation under which the people are groaning? Can it prevent the unjust seizure, under the mild name of *resumption*, of free lands? Can it oblige the Government to increase the number of local courts, the want of a sufficiency of which amounts to a virtual denial of justice? Can it alleviate the evils of the Government purvance system? Can

it prevent the ruin of the native aristocracy which has been effected in order to raise a still higher revenue? Can it check that illiberal and shortsighted policy which has induced the Government to consider and treat the people as a degraded race, and to fix the salaries of those necessarily employed at so low a rate as to compel them to be dishonest? Can it rescue the East Indian community from the unmerited obloquy and degradation in which they have been placed by Government? Can it rescue an English *interloper** from transmission without trial? These and many other questions may be asked, to all and each of which the true and mournful reply is "No." In the last case the court did occasionally attempt to interfere, and stand forth in defence of an oppressed individual. Then, indeed, did the Supreme Court shine forth in all its benignity. Lawyers would make motions, and talk grand about rights, privileges, and liberty. Habeas corpus writs would be issued to the officer who had charge of the individual ordered for transmission, and public expectation raised to the highest pitch in anticipation of the result. But could the court prevent the transmission?—No!—and this the judges well knew. What, then, was the real motive of all this display? To gain popularity with the English public, and put money in the pockets of the lawyers;—for no other end did it or could it answer.

But is there no other point in which relief from oppression could be obtained from the Supreme Court, which could not be found elsewhere? If an English traveller were to refuse to pay a village shopkeeper the price of grain for his horse, and to beat him when he applied for it; in the event of the latter being refused all redress by the local authorities, would the Supreme Court willingly receive the complaint? Certainly; and here we should have a noble specimen of the protection to be derived from a court of English law. The counsel for the prosecution would make a splendid speech, illustrated by tropes, figures of rhetoric, similes, and quotations; he would set forth the oppression and ill-treatment which the poor, harmless, innocent natives constantly

* The term formerly applied by the East India Company to private merchants.

received from the English. He would point to the peculiar atrocity of the case before the court; and, finally, would call upon the judge to mark his abhorrence of such intolerable oppression, by a severe sentence, proportionate to the magnitude of the offence.—The lawyer on the opposite side would then rise. He would begin by observing that his hatred of oppression, injustice, and tyranny of every description, was fully equal to that of his learned brother, and that he was equally anxious to punish every instance of the kind on the part of the English; but, at the same time, that there were always two sides of a question. He would then proceed to state, on the other hand, that the frauds and roguery of the natives were unparalleled; and their insolence so great, that he himself, or even the learned judge upon the bench, might, if subject to it, be tempted to take the law into his own hands, and inflict summary chastisement upon the offending party; and would conclude by turning the whole affair into ridicule, declaring the present case was one of the most trivial he had ever heard of, and that he was ashamed to see such brought into court. Then would follow the summing-up of the learned judge, who would steer midway between the contending parties; declaring, on the one hand, his hatred of oppression, and readiness to afford redress and distribute impartial justice: but admitting that there was much truth in what had been urged by the counsel for the defendant. What is the conclusion? Why, that after the native shopkeeper had spent some months in travelling backwards and forwards, a distance of some hundreds or, perhaps, two thousand miles, and disbursed some thousand rupees in fees, law-charges, and his own expenses, he would gain a verdict in his favour of one rupee and a half for his grain; damages, ten rupees for his beating, with costs that would cover about one-half or one-third of his outlay. I have no intention of throwing any imputations on any individual, judge or counsel. It is not persons, but the system of law which I would assail,—a system which renders justice utterly unattainable, unless by such enormous sacrifices.

I would wish to allude to one point, which is often mentioned to the credit of the Supreme Court, namely, the impartiality with

which causes are investigated and decided, in which Government are a party. Are there none such to be found in the local courts? Let the records be examined, and I will engage to say, that in any court in the country a far greater number of suits of the above nature in which Government have been cast will be brought to light than could be instanced in the Supreme Court, in any equal given period. If the judges of the latter, who are totally independent of the Government, deserve credit for this, what should be said of the conduct of the local judges, whose livelihood is solely dependent on the pleasure of Government?

Where, then, are the benefits, let me ask its admirers, which have resulted from the establishment of this court; while, on the other hand, evils without number may be adduced? Power for evil they possess in abundance, and have usurped a much greater share than the legislature ever intended to bestow. But we may challenge any one to instance one single beneficial effect produced by the existence of the Supreme Court, which would not equally have resulted from a local one.

It is, indeed, monstrous that a court of this nature should be established in opposition to the Government of the country; a court from which there is really no appeal, and whose decisions are at once carried into effect:—a court in which the judges declare that their orders must be obeyed, whatever be the nature of them. According to their dictum, from the death or illness of the others, a single judge may be left upon the bench; may declare whatever he chooses to be *law*; and this is to be obeyed as implicitly as an Act of Parliament, whatever may be the consequences, even to the risk or the ruin of the British Empire. The almost total subversion of the civil government of the country, in consequence of the arbitrary proceedings and extraordinary pretensions of the supreme government, is already matter of history. We have also heard a judge declare from the bench, that he is the sole representative of the king and the government of the country! That that government which is intrusted with the sovereignty of a hundred millions of people can only communicate with him by humble petition! The late trial of Mr. Betts is fresh in the memory of my readers, and is a

strong instance of the effects resulting from the establishment of a court of English law which is virtually irresponsible. An individual is accused of having caused the death of another by severe beating: the cause is under trial, and the jury are summoned to investigate the matter; the first points of which are naturally, the fact of the beating having been given, and the severity with which it was inflicted. In the midst of the proceeding, the judge* declares that there was no evidence to show that the beating caused the death of the deceased; that this is a point of law; that the jury are bound to take all directions on all points of law from the bench; and that he will receive no other verdict than one of acquittal!

Now a man of plain common sense would have supposed that the point of there being sufficient evidence or not to show that the beating caused the death, was the very one which the jury were impanelled to determine: but according to the proceedings in this case, it appears that unless an English surgeon is on the spot, to examine the body at the moment of death, there can be no legal evidence on this head: and, at this rate, the grossest outrages may be perpetrated against the natives with impunity, in the interior of the country, where no surgeon resides. I have no intention, however, to impugn the decision of the court. It is, we may conclude, perfectly consonant to English law; and is only an additional instance, to the thousands that might be adduced, of the wide distinction between law and *justice*. These two have, indeed, been aptly compared to two parallel lines, which, according to Euclid, being protracted to any extent, never coincide. They not unfrequently resemble two diverging lines, the further the proceedings extend, the wider apart they become.

But if this be English law, what becomes of the "Palladium of our rights," our boasted trial by jury? and what a precedent does it not establish! Under this rule of conduct, a judge may, at any time, declare anything to be a point of law, and that he will receive no other verdict than the one he dictates. If this be

* Sir J. P. Grant, the same who was dismissed from his situation at Bombay, for arbitrary and illegal proceedings.

correct, it is high time that the legislature should alter the law; or the institutions of trial by jury may as well be abolished, and the jurors be saved the trouble of attending, and the loss which they incur by the neglect of their business.

The time has, at length, arrived, when things will be put upon a proper footing, with respect to the transactions of this court. It is the duty of Government to impose some restrictions on the arbitrary proceedings and inordinate graspings of power which have been its characteristics ever since its establishment, and to protect their native subjects from the infliction of a system of law, so totally foreign to their habits, customs, and feelings, and so enormously expensive in its proceedings. Let the court exist if it were only to prove, by contrast, the superiority of the regulations of the British-Indian government, faulty and imperfect as these, in many respects, are, over English law; but let it be confined to its proper limits, and, even there, provision should be made to allow the people their option in applying to it, or that of bringing their business before a tribunal similar to the local court established in the interior of the country.

When this shall be accomplished, the expense of the Supreme Court, and the exorbitant fees and law-charges to which the suitors are subject will naturally come under revision. There is not, perhaps, in the whole world, an instance of so expensive an establishment, compared with the limited extent of its proper jurisdiction.

If economy be an object with Government, retrenchment may well be applied here, when the officers of the court are infinitely more numerous than is necessary, and their salaries so enormous, and where the expenses of the suitors are about ten to fifty times as great as in the local courts, in the interior of the country, and this will, without any increase of expenditure, enable Government to increase the number of the latter, and give the people some chance of obtaining justice*.

* The establishment of this court was a job, and the expense a still greater one. The sheriff's situation is a sinecure; he is allowed to perform the duty by a deputy, who gives good security to prevent any loss to his superior. The emoluments of the sheriff are several thousand pounds per annum.

This, indeed, must be one of the first points to which the attention of our rulers is imperatively called: if neglected, it will be forced upon them by disturbances from which the most serious consequences will result, and which will inevitably affect the stability of the British-Indian empire. English settlers will not submit (now that transportation without trial is happily abolished) with patience to the virtual denial of justice, which the natives have hitherto borne. The pressure of business with which every court is overloaded, and the great want of local authorities in the interior of the districts, threaten hourly to stop the machine of Government altogether; and if something be not done, and that speedily, it will fall by its own weight.

In justice to itself, Government should rouse itself from its lethargy, and give the opportunity, which has never yet existed, by the proper execution of the laws, of judging of their good or evil tendency. This is the more necessary, because, in all the complaints that have been made (and God knows they have been sufficiently numerous and just;) a proper discrimination has never yet been made between the faults which should be charged on the laws themselves, and those which are the effect of their non-execution.

Much of this is, I am sensible, a repetition of what has been already advanced, but the importance of the subject is a sufficient excuse. A crisis is now fast approaching of which abundant warnings have been given. It is not yet too late to avert it, but if any longer neglected, the consequences will be dreadful. The disturbances in almost the whole of the Upper Provinces, in 1824, and the late Cole insurrection would never have occurred, could the people have obtained redress against oppression from the established authorities. Serious as these instances were, they would have assumed a more formidable aspect, had the people found Englishmen ready to assist and direct them.

The next point which should engage the attention of Government, is not, perhaps, of quite so emergent importance as that just alluded to. If, however, the welfare of the people and the future stability of the British-Indian empire be, with rulers who arrogate to themselves the titles of *liberal* and *enlightened*, a

point of any importance, and more worthy of attainment than the fame of having extracted a large temporary revenue, without regard to future consequences, it is one which cannot be much longer postponed. I mean the creation of some property in land, and the imposing some restriction to the exorbitant taxation with which the people are now oppressed. I allude, of course, to those parts of the country to which the permanent settlement has not been extended, and there, in reality, property in land does not exist. Estates are constantly advertised for sale without a single bidder being obtained for them; or, as if it were done in mere mockery, for an estate, paying a thousand rupees a year to Government, an offer of *five rupees* is occasionally made! Rent-free lands will not now command above one or two years' purchase, under the tardy and unjust proceedings of the *resumption* regulations. Under correction, I use the word *tardy*. It is the decision of the case only, to which that will apply: the preliminary resumption is, unfortunately, speedy enough. In the present impoverished state of the country, and total absence of any inducement to improve land, or introduce a better system of farming, the revenue has reached its maximum. If the existing system be continued, it is far more likely to fall than to increase. Is this a state of things to be maintained? or to be quoted as one of the proofs of the blessings which the people derive from their subjection to British authority? On the other hand, I am convinced, that, were the settlement declared permanent; if this be the sole object and end of Government, they would, ere many years were passed, begin to derive an increase of net revenue.

In the first place, the expense of collection might be speedily reduced; and, as the people became more wealthy, the customs and excise duties would become more productive. This point of view is for those who can only be induced to listen to the prospect of their own interest. To the really enlightened man, one might suppose that the checking of unjustly-exorbitant taxation, and attaching the people to our rule, would be objects of some importance. But the Court of Directors appear to have been hitherto too short-sighted to perceive this; and each successive Governor-General has been too anxious to carry home a large

balance-sheet to exhibit to his masters, when summoned before them, to render an account of his stewardship, and receive the reward of his services*.

The main points, then, which under the operation of the New Charter ought to occupy the immediate attention of Government, are these:—

1st. To provide for the administration of the existing laws, and to improve them where they require it.

2ndly. To create a property in land, and impose some restriction on taxation.

3rdly. To define the jurisdiction of the Supreme Court and reform its proceedings, and the ruinous expenses to which the suitors are subject.

These are imperative, and will be sufficient, in themselves, to give a new spring to British India. The codification and reform of the laws, and other comparatively minor details, are the next points for consideration, and they must be carried into effect as speedily as possible. Had not the interests of a hundred millions of Indians been considered of minor importance to the price of tea in England, and the obtaining a little popularity for the ministry, the charter ought to have done more for the former: still the prospects which it affords are better than those we had before. Let us be thankful for what we have obtained. Our internal improvement is now mainly in our own hands. Let the Government do its duty, and let the people and the press unceasingly remind them of it, and India may, ere long, rise from the degraded state in which she has hitherto been retained by British cupidity.

March, 1834.

* There may be some places which, from peculiar local circumstances, may, perhaps, yield some increase. Agia, for instance. The expenditure caused by the establishment of the seat of Government at that place, and the great demand which will be created for all sorts of produce, will improve the condition of the people around.

If Government still cling to the hope of a little further increase, the permanent settlement may, in that district, be postponed for a short time; which will afford a famous opportunity for the revenue officer to acquire, at an easy rate, the character of a *crack collector*.

No. XXIX.

ON THE IMPEDIMENTS TO IMPROVEMENT CAUSED BY THE
EXISTING SYSTEM OF CONDUCTING THE DIFFERENT
DEPARTMENTS OF GOVERNMENT.

THE great drawback which has hitherto existed to the promotion of any improvement of British India is the absence of a regular and systematic principle in the government of the country, and the want of any permanent interest among those whose duty it is to devote their attention to this important object in the empire which is committed to their charge. The extraordinary circumstances attendant on the acquisition of our dominion in this country, and the almost unparalleled rapidity of its establishment, together with the limited number of individuals selected for the rulers of so vast a territory, have occasioned such constant labour in carrying on the more current duties of Government, that little or no time has been afforded for enlarged views or general inquiries. Another check has existed in the youth and inexperience of those to whom so large a portion of the government is intrusted,—men brought from a distant hemisphere, whose manners, customs, and language, have no affinity with those they are destined to rule, and of whom, at the commencement of their career, they have everything to learn; a study which requires so much assiduity, so much personal investigation, accompanied, at the same time, with so entire a freedom from prejudice, that even many of those who have spent the best part of their lives in its pursuit, have acquired little real knowledge, or satisfactory information on the subject.

Some general observations on this head, were offered in No. XVII. of these papers; and I now proceed to examine it more in detail, and consider what might and ought to have been done, and what has been the result.

I have already alluded to two of the fundamental articles in the creed of the British government; first, that the primary

object of its existence is the realization of the largest possible revenue; and, secondly, the incapacity and inefficiency of the natives, which is to be supplied by European agency to the greatest extent to which it can be admitted: to which may be added, the idea of the universal ability of a military or civil officer to hold any situation in the executive administration of Government, however complicated its duties, or foreign to his habitual occupations.

The first has been sufficiently discussed, and it seems now to be allowed, on all sides, that the engine of taxation has been exerted to the extent of its power, and can be wound no higher. As long as the whole attention of Government was directed to this point, little hope could be indulged that our rulers could be persuaded to the adoption of any measures to ameliorate the condition of the people, or develop the resources of India, a country rich in natural productions, and capable of improvement beyond most portions of the world. Now, however, that the above connexion has been forced upon our rulers, by statements, arguments, and facts which it is impossible to overthrow, we may hope that better prospects are in store. It only remains for them to open their eyes to their true and permanent interests, and enact a few measures of common justice to the people under their control, and the beneficial effects would soon be manifested, both in the welfare of their subjects and the stability of Government.

Let us now consider the second point, and more particularly the latter part of it,—for the impolicy and injustice of excluding the natives, as much as possible, from all share in the Government of their country, has not only been generally acknowledged, but considerable progress has been made in the abolition of so invidious and disgraceful a distinction. We need not go far for innumerable instances of the extraordinary estimation in which the English character is held, or for proofs of the general opinion of the universal genius of our nation. The appointments to offices which are daily made, are sufficiently strong evidence. We see one man who has been, all his life, in the revenue department, suddenly nominated a civil and sessions' judge, another

who has been educated in the judicial line, all at once created a commissioner of revenue; a third, whose only employment has been in a secretary's office, or the Calcutta custom-house, is made collector and magistrate; a fourth, who has been chiefly occupied in the revenue line, is appointed to audit accounts; a fifth is sent from the commercial to the judicial, or revenue, department, or *vice versâ*. A young military officer is, without any test as to his qualifications, or knowledge of the language of the people, promoted under the name of "assistant to a political agent," to be in reality, judge, magistrate, and collector over a large division, or even to the office of commissioner of revenue and circuit, &c., &c.

Are all these various duties so easy to be leant, that any man, without the slightest previous information, can perform them, as it were, by intuition? Are the numerous volumes of regulations, enacted for the guidance of these different officers, so simple, that the knowledge of them is to be acquired in a day? Doubtless, a man of talent and application may, after his appointment, by dint of study and attention, in due time, make himself in some degree master of them, notwithstanding the small portion of leisure which the constant pressure of current business affords: but how, in the mean time, is the service of Government performed, and the welfare of the people advanced? or, rather, how completely is it not neglected and sacrificed by the new officer's ignorance of points which are daily brought before him for decision? Business is shuffled through, without order or consideration, with little or no reference to the result: orders are issued by some at hazard, ashamed to own their ignorance, and ask advice of those who are capable of giving it, whilst others, privately, refer almost every case to their head native officer, and act according to his decision; so that the people are at the mercy of a man who has every temptation to be dishonest, and to serve his friends at the expense of justice, without the slightest responsibility to act as a check upon him. What else can be the result of such a system? Is the science of government, the knowledge of a complete set of new and important duties, the acquaintance with voluminous laws, the character and language of a whole nation, to be learned

in a moment? The *sic volo, sic jubeo*, of the Governor-General can, undoubtedly, appoint any man to any situation, and may, perhaps, stifle the complaints of those, who have been unjustly superseded to make way for his friends, and of the people who suffer from the ignorance of the *employé*; but he has not yet attained the power to bestow the qualifications necessary for the performance of the duties of the office, nor can he prevent the secret murmurs and discontent of the juniors, or stimulate them to exertion, with so uncertain a prospect of reward.

The foregoing are cases on which depend the immediate happiness, or misery, of millions of people. Those to which I shall now refer are, comparatively, of minor importance. The chief effect which they produce is, to retard those marks of improvement, which are the test of a civilised administration, and to waste the money of Government. In the stud-department, for example, one would imagine, that some knowledge of the breeding, rearing, and medical treatment of horses, was necessary; that some acquaintance with the subject was necessary to the breeding and management of cattle. In England, the profession of a civil engineer requires a course of previous study in architecture, in the practical detail of building, in drawing plans, and in forming estimates and calculations of expense. The business of surveying and making maps of a country is not usually intrusted to a young man, who has never even thought upon the subject. Yet, in India, all these departments are filled and conducted by military men, selected entirely by interest; and not only are they, on their first appointment, perfectly ignorant of the business allotted to them, but, by the regulations of the service, just as a young man is beginning to understand his duty, he is removed from the post, and recalled to his regiment to make way for another. Can mismanagement and insufficiency, in the conduct of the different departments of Government, be wondered at, when such is the mode of selecting officers to direct their affairs? The evil effects of such a system, upon the discipline and well-being of the army, is, also, worthy of consideration. I could mention an officer who performed regimental duty, for about three months, on his first arrival in the country, as a cadet. He was then fortunate enough

to be employed on the staff, in the pay and stud departments, in which he has remained upwards of twenty years, and in which he may continue until he attains the rank of lieutenant-colonel, and then, according to the regulations which have been enacted for the good of the service, by preventing the absence of officers from their corps for too long a period, he may be ordered to join a regiment.

Such a man must be eminently qualified to command a corps on service, or even to manoeuvre one upon parade ! This, perhaps, may be an extreme case; but there are many who obtain political situations, or staff-appointments, after two, three, or five years' subaltern's duty, and, after the lapse of fifteen or twenty years, rejoin the army, as majors, or lieutenant-colonels, in command of a regiment. With respect to the first selection of young men for staff-appointments, that will, of course, (until the world becomes a great deal better than there is any promise of at present,) be decided by chance, or interest, as heretofore: besides, in truth, although it is very fine to talk about merit, to whom should Government apply, to know the character of a young subaltern? If the commanding officer gave the truth, without any exaggeration, in nine cases out of ten, it would simply be, that Ensign or Cornet A. or B. had attended drills and parades, and had never done anything to disgrace, or distinguish, himself. As to knowledge of the language and customs of the people, or probable fitness for the particular duty, for which the young man is chosen, those are points held so lightly in estimation that no question is ever asked, or test proposed. But we are not yet in Utopia; and, granting that interest arranges the matter, I will suggest a plan, by which Government may equally employ its patronage in favour of its own friends, and yet secure a more effective agency. The Governor-General has a certain number of names on his list; instead of appointing them, in rotation, to the successively vacant situations, suppose he were previously to inquire of each candidate what line he preferred, and make his appointments accordingly. It will easily be understood, that one man may have a fancy for horses, another a taste for drawing, or surveying, and a third, an inclination for legal studies; and, if these be respectively

sent to the stud, quartermaster-general's, or judge-advocate's department, each will, probably, shine; whereas, had the appointments been reversed, the inefficiency of all might have been exemplified. The suggestion is worth attention, for it might be productive of good, and could do no harm.

But, if Government wishes the different departments of the staff to be properly conducted, at the same time that the discipline and efficiency of the army is preserved, it must adopt an entirely different principle from that on which it has hitherto acted. Instead of taking men from the army to serve for a certain time, the only sound plan would be, to make the commissariat, the civil engineer, the stud, the judge-advocate, the pay, clothing, timber, and gun-carriage agencies, and other staff-departments, each an establishment in itself, to select men for each, and to establish tests of qualifications, not only for the first appointment, but for promotion to every successive grade. There should be a regular gradation of rank and pay in each department, and those once employed in any one, should be confined solely to that branch of the service. Rules might easily be enacted for reward of good conduct, and punishment of neglect, or mal-practices; and, if necessary, the whole might be made amenable to the articles of war already existing, or any others that might be instituted generally, or for the special guidance of those particular departments. By giving military rank to the different grades, the respectability of the service would be ensured, and if the pay were higher than that of corresponding ranks in the army, the appointments would be an object of ambition to all classes. I would by no means exclude military officers from these situations; on the contrary, it would seem expedient to give them a preference in the selection; and, as soon as an officer was appointed to the staff he should be struck off the list of the regular army, and his place filled up. This would have the advantage of inciting young military men to study, of giving promotion in the army, and of keeping up the complement of officers. In the last, an evil so universally complained of, viz., the paucity of officers with regiments, would be obviated. If efficiency be an object, the staff-appointments ought to be as completely separated as the

artillery, engineers, cavalry, and infantry. The existing plan is as absurd as it would be, to appoint the officers of the three former, in succession, from the infantry, and, as soon as those employed had been long enough in their respective departments, to be well acquainted with their new duties, and to have forgotten their former ones, to oblige them to return to their original line, and to supply their places with a fresh selection of novices. Ultimately, when a considerable number of English colonists shall have settled in India, it will be found expedient to separate some of these departments, (such as the stud, civil-engineer, clothing, gunpowder-agency, &c.,) entirely from the military branch, and to provide for what is wanted by contract, as in England. What an extraordinary farce it is to employ a young subaltern, for fifteen or twenty years, as *head tailor**, and then send him as lieutenant-colonel to command a regiment.

At present a military officer is appointed, to superintend the construction of gun-carriages; he may, perhaps, understand the business, but he is selected entirely through interest, and for anything Government know, or care, may be perfectly ignorant of mechanics. The natural consequence of such a mode of conducting the staff-departments is, that, in reality, most of the business is managed by some English, or native clerk, who has no responsibility, and that the expense is far greater than if the articles required were procured by contract. The large sums of money, often acquired by these staff-department clerks, sufficiently show the abuses that must exist. Instead of buying the timber required for buildings, gun-carriages, &c., Government employ timber-agents to cut and bring it from the forests. The expense is double what it might be, besides which, great injury is caused by the ignorance of these agents. Whole miles of forest have been sometimes cut down for Government, and, after all, the timber proved to be good for nothing. But Government care little for this, compared with the enjoyment of the patronage of appointments to give to their friends.

The same plan should be adopted when military officers are selected to fill civil situations. They should be obliged to

* This is the real duty, although the appointment has the fine-sounding name of clothing-agent.

undergo a test, in the first instance, and, after a certain period of probation, if found duly qualified, they should be struck off the army-list, and permanently fixed in the civil service. On this subject, it seems proper to advert to a proposal, which has lately been agitated, to select the whole of the civil service from the army, and make the latter the first step in the Government employ. This would be by no means judicious. Doubtless, in so large a body as the military officers in India, there are, and must be, many individuals of great talents, and possessed of eminent qualifications, for almost any situation: but that the general attainments of the military officers can be equal to those of the civilians, a moment's reflection upon the primary education, and subsequent training of the two classes, will show to be impossible. The former usually come to India, at the age of between sixteen and seventeen. The latter, at the same age, are sent to college, where they study for two years, and then, after passing an examination, are sent to India, having, in addition to the advantages of a college-education, had the opportunity of seeing a little more of the world, and of society, than the former. After his arrival in India, all that the young cadet is *obliged to learn* is parade-duty, and the words of command. The whole of his time, not devoted to these occupations, is entirely at his own disposal, and is, by far the majority, spent in idle amusements. The young civilian, on the other hand, is obliged to study until he can pass a second examination in the languages of the country, and is then appointed to a situation, in which, however indisposed to application, he is *compelled to do something*. Under these circumstances, in a given number of each class, which is the more likely to be qualified to fill the high and responsible situations, in which the civil functionaries have hitherto been placed in India?

With regard to the civil service, if the welfare of the people and the permanent interests of Government were the real objects, we should adopt the same plan which is above suggested in relation to the staff-appointments, viz. throw it open to all, and establish a test for admission to the service, and one for promotion to each successive step, but as this will be considered a point

of minor importance to the patronage of the Court of Directors, it is probable that the old system will, for a considerable time at least, be retained. This objection does not apply with equal force to the selection for staff-appointments. The patronage of the local government would, in a considerable degree, be retained, but that of the Court of Directors would be increased by the appointment of an additional number of cadets to fill the vacancies occasioned, and this might counterbalance the *evil* of the plan, viz., the extra expense which it would entail.

There are also many anomalies in the provisions for carrying on the business of Government, which are not only very absurd, but extremely unjust towards the people, inasmuch as the interests of the latter are wofully sacrificed. Some of these have been already mentioned, such as the appointment of men who have spent all their lives in the upper provinces to the charge of a district in Bengal, and *vice versá*, the character and language of the people of Bengal Proper and Hindostan being nearly as different as those of the French and English. Again, we have now possession of Arracan and Assam, in each of which is a race of people dissimilar in character and language from either of the above. Yet this circumstance appears never to have any weight in the selection of officers to administer the affairs of the different parts of our empire. Interpreters are, previous to their appointment, obliged to pass an examination in the language of the country; but adjutants to native regiments are subject to no such test. Can our rulers have ever reflected for a moment that it must be impossible for an adjutant to do his duty who is unable to converse familiarly with his men? Surely if it had occurred to them, some rule on this head would have been enacted. Of the two, as far as the interests of the native soldiery are concerned, a knowledge of the language is infinitely more necessary in an adjutant than in an interpreter. The services of the latter are only required at court-martials, or at other set times and places, when it would be easy to procure a person to perform the duty; but it is out of the question that an adjutant can always find some one to interpret for him in the numberless instances in which he must communicate with his men; occurring, as they most often

do, at a moment's warning. It is not very uncommon to see young medical men in charge of a corps who have only been a few months in India, and whose knowledge of the language does not extend beyond a few words sufficient to enable them to give directions to menial servants. How is it possible that the complaints and diseases of those in the hospital under his charge can be properly attended to? Many other instances of this nature might be quoted; but I have already alluded to them in No. V. of these papers.

In the discussion by the members of Government on the plan for the future government of India, which took place three years since, the Governor-General seemed to be of opinion that he had ample leisure, not only to conduct the whole local business of the Bengal presidency, but to assume, in addition, the general supervision of Madras and Bombay. He might as well pretend to administer the internal affairs of the whole of Europe! It is not impossible that such an undertaking might be performed to his own satisfaction, but what would the people say to such an administration of affairs? It is to be feared that his Lordship's character for penetration has been overrated, or his confidence in his informers misplaced, if they have been unable to discover the numerous abuses which exist in his own immediate division of the Government. If the indefatigable energy which Lord William has shown in his financial measures had been extended to the far more important points of the welfare of the people, and the improvement of the country, he would have discovered ample matter to occupy all his talent and application, great as it has been asserted to be. When the new system shall have been brought into full operation, if the Local Governments do their duty, the deliberation and decision upon the various points and suggestions which will be brought to notice, even allowing that the labour of previous detailed inquiry, and of digesting the mass of evidence received be performed, will, with the general political relations, be quite sufficient fully to occupy the time of the Supreme Government. It is to this end that the utility of the local Governors will be made manifest, and it is to be hoped that some better use will be made of the voluminous reports that have been constantly

made by the different functionaries than to fill the charnel-house of the Government record-offices. It is probable that even now, were they made proper use of, sufficient materials exist in these offices to enable a committee to suggest a reform for most of the existing abuses in the government of British India.

Take by way of illustration, the immense number of documents quoted in Mill's History ; with the exception of the Parliamentary Committee Reports, all these have at various time been submitted to the Supreme Government, copied in their secretary's offices, and despatched to the Court of Directors ; and many of them have been printed in England. Yet it is probable, that until the publication of Mill's History, no individual member of the Government was aware of the existence of even one-tenth of these. One of the first results of the creation of two governments in the Bengal presidency ought to be the complete separation of the civil service into two bodies, for the administration respectively of Bengal Proper and Hindostan : and even in each of these portions it may perhaps be found expedient to make some further subdivisions. I shall probably be answered with the old observation of the excellence of the existing British administration ; of the success which has attended its operation, &c. &c. ; to which I shall merely repeat my former allusion to the fable of the lion and the sculptor. We have hitherto been our own historians, our own artists ; and we have no other representations to produce, to give the contrast of light and shade, beauty and deformity, which is necessary to a perfect knowledge of the whole subject. The people of India have hitherto been silent ; they have borne with the most exemplary patience the injustice, oppression, and extortion to which they have been subject ; but it is a very erroneous conclusion to imagine that this resignation and submission will last for ever ; especially when they are daily becoming more enlightened, and more alive to their own interests. One portion of the hitherto existing boasted system of excellence may be illustrated by supposing the company of African merchants alluded to in No. II., to have begun their conquest, not in England, but in Italy, in an obscure sea-port of which they had established their seat of government ; that they had gradually extended their rule

over the half of Europe; that they deemed it an excellent plan constantly to change their African judges and magistrates from one country, to another, between Italy, France, Spain, Germany, and England; and that they chose to conduct the business of the courts in a language foreign to every part of their dominions!

The affairs of those countries would be admirably administered, probably to the entire satisfaction of the Africans, who, after accumulating fortunes, retired to enjoy them in their native land, and to congratulate themselves on the blessings which they had conferred on the Europeans. It is high time we should rouse ourselves from the infatuated vanity in which we have been hitherto enveloped, and act so as to deserve some portion of the praises which we have so liberally heaped upon ourselves. The storm will otherwise burst when it is least expected. When we look upon the real state of things, and examine the system on which we have hitherto acted, it will cease to be a matter of surprise that so few marks of a civilized people are to be found in this country. Where is any trace of any institution that would outlive the downfall of our empire? Where are our roads, bridges, serais? Look even at the Government-buildings, such as gaols, courts, police-offices: their wretched state of repair and disreputable appearance sufficiently mark them out to the traveller. Why is this? Because the superintendence of each has been, either from a miserable economy, or the abuse of patronage, intrusted to men who were ignorant of the duty. To construct the latter we had what was denominated a barrack-master's department: one in which the officers ought to have been acquainted with every part of the duty of a civil engineer. Yet the individuals selected to fill the appointments were generally young subalterns from the army, whose sole recommendation was *interest*. What else could be expected but that the buildings should be miserably constructed, and as badly repaired, and that more money was wasted than would have sufficed to perform the work in an efficient manner: to say nothing of the vast sums that have been *embezzled* by those intrusted with the execution of the duty. I knew an instance where a barrack-master, who was really an honest man, succeeded in securing a pension for his head

native workman as a reward for the substantial manner in which he had erected certain buildings, the whole of which fell to the ground in a few years. The mode devised to check such abuses was worthy of those who had established such a plan for the execution of the work required. This was to order a committee to report upon the buildings after they were completed. This sounds well; but I must proceed to the detail. The committee was composed, not of engineers, or men acquainted with the subject, but of military officers, selected according to their turn for duty, all of whom were still more ignorant of architecture than the barrack-master on whose work they were to report. It was usual, too, to hold the inspection after the building had been plastered and white-washed; so that it was utterly impossible to judge of the quality of the materials which had been used in its construction. I recollect an instance which occurred at Meerut some years since. A building was duly surveyed by a committee, and reported to be well constructed. It fell down in the ensuing rainy season. In such a case, the course to have been adopted was plain—either to punish the members of the committee, if they had neglected their duty; or if it were their misfortune to be ignorant of what they were called upon to perform, some arrangement should have been made, to ensure the appointment to the next committee, of men who possessed some knowledge of the business on which they were required to report. But so far from this, all that Government did, was to order, that those individuals should not sit again on a committee on buildings: forgetting, that under the same system, every future committee was likely to be just as ignorant as the one which had been first reprimanded. The expression of the displeasure of Government did not give a moment's uneasiness to those concerned, because the business they had been called upon was not considered by the army as any part of military duty. On the contrary, they were pleased at the future exemption which was promised them from a troublesome office which they did not understand.

I have already alluded (see No. XVII.) to the subject of road-making, and the entire failure which, with a few exceptions, has attended our attempts in this department. The reasons are

sufficiently clear, when we examine into the mode in which it has been conducted. The plan has been to intrust the business to the magistrate of each district, who was to employ the convicts, and occasionally to engage a young military officer, who was chosen by interest, to perform the work by means of hired labourers. In the former case, the labour of the convicts has been completely wasted. In the latter, not only have large sums been thrown away, but too frequently embezzled by the superintending officer. For the last fifty years, there have been about fifty-five magistracies in the Bengal provinces, each of whom have had the superintendence of, on the average, about five hundred working convicts, making a total of more than twenty-five thousand. Supposing that each man had made a furlong of road in a year in a substantial manner, this would have given more than three thousand miles of road in the first year. The same rate could not have been continued, because some portion of the labour of every succeeding year would have been required to repair the roads previously constructed: still it is not too much to say, that had the exertions of these men been properly directed, we should at the present day have had fifty thousand miles of good roads in the Bengal presidency! But what is the fact?—That, with the exception of sixteen miles from Calcutta to Barrackpore, there is not in the whole country a road such as in England would be considered worthy of that appellation. Even at the capital itself, with the exception of the roads to Dum-Dum and Barrackpore, beyond the superintendence of the Lottery Committee, there is nothing but tracks such as may be seen in England across a turf-common*.

* In a late number of Blackwood there is a famous puff for the East India Company. Among other things, the writer talks of the splendid roads which have been substituted for the hardly practicable footpaths which formerly existed. It is a pity, that for the benefit of travellers, he did not point out where these roads were to be found. I have journeyed by land over some three or four thousand miles in various parts of the Bengal presidency,

and have known others who have done as much in other parts. I never met with one who had been able to discover these roads. A very good foundation of a road has been laid between Benares and Allahabad; and one between Mirzapoor and Jubulpoor. They are, however, only of earth unmetalled, and unless completed, will, in a few years, be no better than the common tracks.

How could it be otherwise, when there was no one to superintend the matter? As to the magistrates, there are not perhaps five men in the whole civil service, who have the least knowledge of the proper method of constructing a road; and not one who could devote any time to it, without neglecting other duties of greater immediate importance. They have not been able to make good roads even at the different stations in their own immediate neighbourhood, over which they, their families, and their friends, are daily passing. Look at almost every station in the upper provinces: Saharunpoor, Meerut, Allyghur, Bareilly, Futtehghur, Agra, Mynpoorie, Khanpoor, Allahabad, &c. The roads at these places would disgrace the worst parish in England, with few exceptions, and these are owing not to the magistrates but to others. At Allahabad there are indeed some good roads, but these were made under the direction of an engineer-officer, with stones supplied by him from the bed of the Jumna. At Khanpoor there is one road worthy of the name, running nearly through the station;—this was well made and metalled with kankur*, by General Sleigh's orders, by hired labourers. Even such a simple matter as planting trees by the sides of the roads has been very generally neglected by the magistrates. There are, probably, in the whole line from Calcutta to Meerut, not ten miles of road which have been so planted, and that, too, in a country where the quickness of vegetation holds out every encouragement to attend to so useful an object. The constant change of officers, and the absence of any settled plan for road-making, has had much effect in preventing anything from being done. Few men like to begin a work which they feel pretty sure they shall not remain long enough to complete, or to reap the benefit of, and where they have no guarantee that it will be attended to by their successors. The consequence has been that the whole labour of the majority of this immense number of convicts has been utterly wasted, and the rest have been sent to perform the private work of the friends of the respective magistrates. On this point I would venture an observation, because it seems to have attracted

* A sort of concrete of lime.

some notice of late; and some remarks have been made as if it were really an unusual occurrence. I have at various times visited nearly twenty different districts, some of them more than once, some three or four times; and can only say, that I have never yet known a station where it was not the case. The circuit judges in former days, and the commissioners in the present, who ought to have checked such abuses, had usually a large gang of convicts at work in their own gardens and grounds, they could not therefore reproach the magistrates for disobeying the Government-orders on this head in favour of the friends of the latter.

Where the erection of a bridge has been sanctioned by Government, the work was too often intrusted either to a barrack-master or to the magistrate of the district: in either case the work has generally been useless, even where the bridge itself has been well built. The barrack-master's object was to do it as cheaply as possible, and thereby gain credit with the Government; and no provision was made for a road leading to the bridge, which is often built a considerable height to allow for the periodical floods of the rainy season. The road was left for the magistrates to complete, and, consequently, it was seldom done at all, and never well done, and there the bridge remained, a monument for the admiration of passengers who were wading through the stream over which it was erected!

The first thing in the formation of roads will be to take advantage of the means which at present exist. The second to discover others by which the object may be obtained. Something has been done of late years in changing the designation of barrack-masters to that of executive engineers, and in appointing engineer-officers to hold many of these situations. We must now consider the proper employment of the convicts: had this been attended to from the first, we might have seen, on a moderate computation, about fifty miles of road constructed in each district annually for the last thirty years. Supposing an uncovenanted servant on a salary of two hundred rupees a month had been appointed in each district, that would have been 2400 rupees for 50 miles of road, or 48 rupees a mile, a cheaper rate than is

known in any part of the world; for the expense of feeding and guarding the convicts would have been no more than it is at present. It is not too late to adopt some such measure now; its good effects would be felt not only in turning to some account the labour of the convicts, but in the introduction of a more efficient system of prison-discipline.

At present the discipline of the gaols, and, indeed, of everything connected with them, is in a most infamous state. The magistrates cannot possibly devote sufficient attention to the subject, and the usual miserable system of parsimony has prevented the employment of officers of sufficient respectability and authority to supply the omission. Regulation II.* of 1834, has been lately promulgated for the avowed purpose of effecting the above object, and provision has been made for the Governor-General in council to introduce, from time to time, rules for the better management of the public gaols. All this sounds well; but unless it be preceded by two indispensable preliminaries, it will be absurd to hope for any improvement:—first, the construction of the gaols must be altered, so as to admit of a proper classification of the different prisoners; secondly, a proper person must be appointed, whose sole attention should be devoted to the management of the gaols and superintendence of the convict-labour. In the former duty he should be responsible only to the commissioner of the division; and the local magistrate of the district should be allowed no further interference than to be obliged to visit the gaol occasionally, and bring to the notice of the commissioner any abuses or irregularities he may observe. In the latter, the superintendent of the gaol should be accountable to the overseer of public works: a formula of the best mode of road-making, or of conducting such labour as is suitable to the

* This is one of the "*ad captandum*" regulations. The present construction of the gaols is a mere division into large wards, each capable of holding 100 or 150 convicts, which are most commonly full. It is a farce to talk of any proper classification of prisoners in gaols so constructed. In some of the gaols there is no debtors' ward for females, so that should one be confined for debt, she must either be placed in a large public ward full of men, or in that appropriated to women who are imprisoned for murder or other felonies. When the settlement of Europeans becomes general in India, it will be necessary to provide some better accommodation for the confinement of those who may be so unfortunate as to deserve it, than at present exists.

convicts, should be drawn up and circulated to each officer; and if he were obliged to serve for a short time under a qualified person in assisting the construction of roads, (for this is the work to which the labour of the convicts may be most beneficially applied,) it would still further promote his efficiency. There are now hundreds of English and East Indians, men of respectability, many of whom have mixed in the society of gentlemen, well acquainted with the character, customs, and language of the people, who have been rendered so destitute by the late mercantile failures, that they would willingly accept the above situations for a salary of 200 rupees a month*.

On the abuses that exist in every department of the public gaols, I have not now time or space to enlarge, but shall bring

* At all events, the superintendence of the labour of the convicts should be taken out of the hands of the magistrates. Vested in whomsoever it may be, it is hardly possible that a greater waste of means and labour could happen. The total inefficiency of the present system is sufficiently proved by the fact, that after thirty years not a single permanent and well-executed public work exists as the result of the labour of about 25,000 convicts! Some time ago an attempt was made to introduce trades and manufactures into the gaols. In one or two instances, where the magistrates were bitten by the mania, and neglected other duties of far greater importance to superintend this, by dint of whip or spur some little immediate profit to Government resulted; and this was the real object of the attempt, —not any philanthropic wish to improve the condition of the convicts, or to create any public benefit, independent of profit. In all other cases, after much time and money had been wasted, the plan was wisely given up. The institution of castes presents great obstacles to any plan of this sort, besides, only conceive the wisdom of appointing a man who was already overwhelmed with business, to superintend a large manufactory, the business of which he was utterly ignorant of, and which was to be carried on by workmen who knew as little as their master! It

seems not to have struck those who set this plan on foot, that the fundamental principle of the profitable employment of convicts is to devise some labour which should require as little instruction as possible, and yet be *hand work*. It is to this end that tread-mills have become so general in England. In this country, at least until Government shall be willing to disburse a sufficient sum on this head, and to appoint proper people to devise and superintend an efficient system of gaol-discipline and convict-labour, road-making, and digging canals is that on which the labour of convicts will be most profitably employed. Those who have been employed in agriculture, and these comprise the majority of the prisoners, have nothing new to learn in the use of the mattock and pick-axe; and connected with these works there is lighter labour for the others, which is easily learnt in a few days. The benefit to the public is great and immediate. This fact probably is, that the projectors of the above-mentioned plan perceived the evil of the present system in which the convicts do nothing, but were unable to discover the reason. Lord William Bentinck's plan of collecting the greater part of the convicts to form a grand trunk-road is good; the work, however, might be much better performed than it is.

the subject to notice hereafter. Before I quit the subject, however, I will suggest the following proposition, which is worthy of attention, until some better system be adopted. To allow the whole of the convicts to remain idle in the gaols, to discharge their guards, and expend the money now employed in paying these, in the hire of labourers. To a gang of 500 convicts the number of guards is two jemadars (sergeants), at ten rupees a month each, four duffadars (corporals), at six rupees each; and 100 burkunduses (constables), at four rupees each,—total 444 rupees per month. For this sum might be hired 120 labourers at three rupees, eight annas each,—420 rupees, leaving 24 rupees for the pay of four tindals (inspectors), to overlook them. The advantages of this plan would be twofold: first, the convicts would be prevented from ill-treating passengers, and robbing gardens and orchards, which is their chief employment at present, and the numerous escapes which now occur, when out on duty, would be checked; secondly, the public benefit in the improvement of the roads; for no one can doubt that 120 labourers would perform much more than is effected under the present system by 500 convicts*.

The second point in the formation of roads, and prosecution of other improvements, will be, to give the people some voice and interest in effecting what is desired, and to endeavour, by the formation of local committees and municipal authorities, to induce them to exert themselves in matters of general importance. “In India,” as Elphinstone has justly observed, “the people actually go for nothing,”—everything is to be done by the Government. Even the share which the former possessed in the management of the country under their own rulers has been usurped by the British Government. The result is, that little is done, and that little ill-done, and the time of the supreme government is occupied by the most petty and minute details, which leaves them little leisure for measures of importance.

Formerly, the judges of circuit and superintendents of police

* There need be no apprehension, in the event of such a suggestion being adopted, of discipline becoming lax, or of bad practices finding their way into the gaols; matters could hardly be worse than they are at present.

were vested with authority to grant small sums of money for local improvements, but in the late economical rage, this has been much curtailed, and virtually annihilated, and at this moment, such a trifling point as the construction of a drain, at an expense of a few shillings, must be referred for the consideration of the Governor-General in council! Nay, to such a pitch is this carried, that even the *repair* of a drain*, which was completed in more liberal times, and may perhaps be on a high road, which, being broken in, obliges travellers to make a *détour* through the cornfields, must be postponed for a reference to the same authority, and months often elapse before the sanction be received, if, indeed, it be not refused on the plea that the funds of Government must be devoted to general, and not local, objects of improvement. In all the towns, the main streets even are knee-deep in mud and water after every heavy rain; and constant encroachments are made by individuals throwing out porticoes and verandahs, and other excrescences in front of their houses, because there is no local authority to prevent such abuses. I would beg to refer my readers to the observations of M. Dupin on the existence of the same plan of centring every attempt at public improvement in the Government in France, the consequence of which is, that nation is a century behind England. It is ridiculous to repeat the old assertion that the natives are not fit to be trusted; we have never yet made a fair trial. The only instance in which it has been attempted is in the *chokeedarree* (watchmen) assessment in the large towns; and, notwithstanding occasional abuses and partialities, I am convinced that the business is, on the whole, much better managed than it would be if it were exclusively under the magistrates.

There should be in every large town some local authority, either municipal or in the form of a committee, who should be appointed to superintend the improvements alluded to. It should possess the power to impose a rate, to appoint officers, and to regulate

* It is extremely common to find the crown of the arches partly or wholly broken in. The earth with which they were covered becomes worn away, and of course the arch itself is soon crushed by the heavy carts which pass. It seems to be no one's business to attend to these matters; and thus, for want of the occasional labour of a dozen men for a day, a work which has cost a considerable sum is rendered useless.

the disbursements. By degrees the system might be extended over the whole country. It is probable that petty abuses might be perpetrated now and then, but there would be no policy in abolishing the whole plan in consequence, and pronouncing the natives unfit to be trusted. We must not be in too great a hurry; people who have been for years treated little better than slaves, cannot be expected all at once to enjoy their liberty without some little abuse; and this might be soon checked by a proper system of supervision,—for this the officer, as above proposed, to have charge of the gaol, would be a very available person; and he might be employed in a general superintendence, and in suggesting to the native committees the work, and the mode of executing it, which would be of most general utility. A few days' absence from his head-quarters four or five times a year would be sufficient for this; for with a little practice, the native subordinate superintendents would be just as capable of conducting the details of the work as any Englishman, and could be procured at infinitely less expense. The employment of the magistrates or collectors in this way would be absurd, they have more duty already than they can perform; besides, when the old prejudice has a little more worn off, we shall find that a man may be possessed of some talent, though he be an uncovenanted or uncommissioned officer, and though his colour be dark.

Some years ago, Government did, in an uncommon fit of liberality, appropriate funds, and appoint local committees of improvement, and great was the benefit which resulted, notwithstanding the drawback occasioned, in some instances, by the silly squabbling among the members; but there everything was to be done by Englishmen. What a fine opportunity it would have been, to have associated some of the respectable natives with the English committees, and to have attempted to introduce some such system as is now proposed. On the score of abuses, I shall merely remind my readers, that, in the subject under discussion, such are by no means unknown in England, where justices of the peace, mayors, and aldermen, parish overseers, church-wardens, way-wardens, and the whole *posse comitatus* of a town, have been known to make use of their power to their own advantage in

various instances. As long as human nature remains as it is, these things will occasionally happen; but, notwithstanding their occurrence, in no country in the world have improvements in roads, lighting and paving of the streets, profitable employment of pauper-labour, and other minor matters of police, been carried to such a height, as in England; simply, because the control of these points is left to those who feel the immediate benefit of them. Self-interest, and the good or evil opinion of their neighbours and townsmen, here operate as the great checks, or encouragements, to a discharge of duty, whereas, if these matters are left in the hands of Government none such can prevail; and, whatever may be the extortions, or abuses, among local authorities, they would be ten times greater among the emissaries of Government. What should we think, if the repair of a drain, in an obscure parish of Northumberland, could not be effected without a representation of the matter, by the local magistrates, through the lord-lieutenant of the county, to the King in Council! "Good heavens!" exclaimed the Turk, in America, "on what a grand scale is everything carried on in this country*."

One advantage of the plan proposed is, that the rate would fall chiefly upon the only part of the community, who, in those provinces, where the permanent settlement has not been introduced, possess any wealth,—the merchants and shop-keepers, and

* Among other things, we might hope for some improvement in the ferries. When Government first took this business into their management, it was magnanimously set forth, that the object was not to raise a revenue, but to keep the ferries in good order, provide efficient boats, &c. What has been the result? simply, that no improvement of any kind has ever been made, or even attempted; everything connected with the public ferries is in as rude a state as it was before; but the management has been taken out of the hands of the people, to whom they belonged, and they have been generally farmed to the highest bidder, for the benefit of Government. It was stated some time back, by a traveller, in one of the public prints, that, at Calcutta,

under the very eye of Government, on the "grand military road" to Benares, there is not, at the public ferries over the Hoogly, a single boat fit to cross a horse in; and that passengers, who did not wish to run the risk of having their horses seriously injured, were obliged to hire a private boat for this purpose, which belonged to Cook, the livery-stable keeper. Also, that carts, which bring goods from the upper-provinces to Calcutta, always remain at Sulkea, on the opposite side the river, because there is no proper conveyance, on which they can cross; thus, subjecting the merchants to the extra expense of unloading their goods, and hiring fresh carts, on the Calcutta side, to convey them to their warehouses. I believe this is still the case.

who, moreover, are exempt from any direct tax. With respect to the poorer inhabitants of the towns and villages, the plan would be, to oblige every grown man to give so many days' free labour in the year, care being taken to call for this labour at those times, when, with reference to his mode of livelihood, it would occasion him least inconvenience, or, to pay a fixed small sum for exemption. This is not mere speculation. The plan was adopted in one or two districts, in which, by the personal influence of the civil functionary, the people were induced to agree, voluntarily, to such a project, and the benefit resulting was immense. In England, as must be well known to my readers who have had experience of country affairs, the farmers are obliged to give a certain portion of labour every year, to keep the parish and public roads in repair.

Where the English have made any attempts to introduce measures which would tend to the improvement of the country, they have been peculiarly unfortunate in the mode in which these attempts have been made. One would suppose, that their object was to have distinct interests, and to keep aloof from the people ; instead of inducing them to unite with us. Is a house for the accommodation of travellers to be built, that of the English is only thought of: in the attempts of the magistrates at road-making, the localities selected are entirely with the view of the convenience of a few English residents, without any reference to the general communication of the country. We cannot have a stronger instance than our post-office, which is so mismanaged that the natives will rarely make use of it, but have established posts of their own all over the country, which travel as quick as ours, while the postage charged is much less. Even where a *serai* (inn) has been erected purposely for the convenience of the people, some stupidity, or fatality, seems to attend our efforts: in some places, they fall to ruin from never being inhabited, because the situations selected were such as to render them useless to travellers.

Before conclusion, I will advert to one more point as connected with the subject of this paper, the policy, and even justice, of making some provision for preventing the misery which is every-

where exhibited on the visitations of a season of scarcity, like the present. There are two features of the British-Indian government which are, perhaps, without a parallel in any other country, and which tell greatly to our discredit, by the contrast that is drawn between our rule, and that of the native princes whom we have supplanted. We impose taxation to such a pitch, on the main source of wealth, on the land, that, in an ordinary season, the proprietors and farmers have only just sufficient left them to subsist on; and, when a scarcity does occur, not until the household-goods have been sold for arrears, and the people begin to think of emigrating to the native states, so that the impossibility of realising the balances is forced upon them, will Government ever consent to any remission. This it is, which makes a scarcity far more felt in our provinces, than in any native state, and the country much longer in recovering itself. It is also, in the end, more detrimental to the Government revenue; for I am convinced, that, in such cases, were one rupee remitted, in the first instances, it would prevent an ultimate loss of three or four; for, in addition to the loss of revenue, Government are often obliged to devote large sums in feeding the miserable wretches in idleness. At the present moment, thousands of all classes, ages, and sexes, are wandering about, in a state of nakedness and destitution almost inconceivable. They are even giving away their children to any one, who will promise to feed them, and keep them as servants. In England, such a state of things is met by increased poor-rates, and private subscriptions and charity. In India, the former provision does not exist; and the latter goes but a small way in obviating the evil, because the number who have it in their power to give, is so few. It is at such times, that it is the bounden duty of Government to stand forth and give some effectual relief. This should not be done by indiscriminate donations of money, or food, because there are numerous vagabonds, who would take advantage of such liberality, to live at ease in idleness. The truly useful plan would be, to appoint a person for the time, in each district, to make some road, or work of public utility, and to offer employment to all who come. To prevent abuses, the rate of pay should be fixed at about three-fourths of the usual rate of labourers'

wages; for the object is, merely to prevent people starving in a scarcity which it has pleased Providence to inflict, or from being driven, by want, to the commission of crime. With such a resource as this, in every district, every able-bodied person found begging should then be punished as an impostor, and the well-disposed would be saved from impositions, which are now too successfully practised. The money expended would also be the cause of immense public benefit. Such a plan as this would be worthy of a Government which has been so highly extolled for its liberality and benevolence, but which, as regards the people of India, has hitherto done so little to deserve it.

March, 1834.

No. XXX.

ON THE LANGUAGE AND CHARACTER BEST SUITED TO THE EDUCATION OF THE PEOPLE.

By way of preface to this subject, I would beg to refer to my papers, Nos. V. and XIX. The discussion which has lately been published, between the members of the Committee of Public Instruction, has induced me to offer a few additional remarks; and, in the first place, I cannot avoid expressing my regret to see that the real point which ought to be considered, is in danger of being lost sight of, by discussion in the abstract, personal invective, and imputation of unworthy motives*.

The object in view is the promotion of the instruction and intellectual advancement of the natives of India; but there appears to be great diversity of opinion, as to the best means of effecting it. Some advocate the study of Persian, Arabic, and Sanscrit; others prefer the introduction of English into the schools and colleges; and, amongst these, even if the language to be chosen were decided, the character in which it should be written remains a disputed point, while a few are anxious for the

* Several letters on this subject appeared in the daily press.

translation of works into the vernacular language of the country, as the most expedient course.

A few general observations are, however, necessary at starting ; and the first point which demands our attention is, an inquiry into the origin of all the different attempts which have, hitherto, been made to introduce a foreign language into any country. It has been simply this,—that when one nation, which, to say the most, was only advancing in the march of civilization, had conquered another, the conquerors conceived, that it would be less trouble to compel the conquered to adopt the language of the former, than for themselves to acquire that of their new subjects. The plan has never yet succeeded, except where the original race has been entirely or nearly exterminated. It is needless enumerating the various countries in which the experiment has been made and failed. They have been so often alluded to of late, that even those who were previously ignorant on the subject, must be familiar with the instances: one, however, which, perhaps, furnishes the strongest example of any, seems hitherto to have escaped observation,—I allude to that of Wales. This small portion* of territory has been closely connected with Saxon England for nearly eight centuries; it has formed an integral part of the kingdom for six and a half. Travellers innumerable, from each, have visited the other, and the closest communication has existed between them. Yet, to this day, Welsh is the vernacular language of the majority of the people, so much so, that in the churches service is performed once a day in Welsh; and even in some of the inns, on the high roads, which are chiefly frequented by English, servants will be found, whose language is Welsh, and who understand no more of English than the mere names of the articles which a traveller is likely to call for. Yet it might, with some reason, have been expected, that, in such a case as this, the language of the smaller, weaker, and conquered province would gradually disappear, by the constant intercourse, and the repeated attempts that have been made to introduce that of its more powerful neighbour and conqueror. This may, perhaps,

* Its extent is a hundred and twenty by eighty miles, not larger than one of our large districts, and hardly so populous.

ultimately be the result ; but more than six centuries have not been sufficient to accomplish it, and how much longer it may be before the object will be attained, it remains for time to show. With such examples before us, particularly that just quoted, does it not appear extraordinary, that, in India, where the total amount of every class of Englishmen is computed at about 30,000, and whose numbers are not likely to increase with any great rapidity, our rulers should think it possible to change the language of a hundred millions of native subjects ? The general introduction of the English language in India, may, indeed, be set down as a chimera.

But it may be observed, that, though this may be impracticable as a universal result, yet that, to a considerable extent, a foreign language may be made use of, to instruct those classes of the people who have leisure for study ; and this may be, in some degree, true. But to how small a portion will this apply ! The majority of the people must, and can only, be enlightened by means of their own vernacular tongue ; and how blind a policy is it to neglect the benefit of the millions, in order to promote a little extra learning among the few, which would never be likely to extend beyond their immediate circle.

The first object ought to be, to translate books into the vernacular languages of the country.

The second is, the choice of which foreign language is best calculated to afford most instruction to those who have leisure to study it.

The first is so self-evident a proposition, that it is needless to dilate upon it, especially as anything which may tend to elucidate it will appear in the course of the remarks which will be offered upon the second. With this view, English, Persian, Arabic, and Sanscrit, have each their respective advocates. Of all these, there is not a single department of knowledge in which the first will not afford more sources of information than all the others united. Is history required ? That of the whole world is to be found in the English language. Should any student wish to devote his time exclusively to that of any particular country, he might, indeed, possibly discover some details in the works of the original

authors which have not yet been translated into English; but in the latter language he will find quite enough for the general reader. In chemistry, astronomy, geometry, natural history, geology, botany, medicine, and, indeed, in every department of science which can be mentioned, the works extant in English have left any that the orientals possess centuries in arrear. It is true that the "wise men" originally "came from the East," and and that the Arabians and Indians had made some progress in many of these sciences, while our ancestors were painted barbarians, in the grossest state of ignorance. They deserve due credit for what they did; so do Davis and the old navigators receive their due share of applause for their exertions and discoveries in search of the north-west passage; but a voyager of the present day, who, in pursuit of the same object, should take their works as his guide, instead of the more recent discoveries of Parry, Franklin, and Ross, would not be entitled to much credit for wisdom. The poetry of the East has called forth the most extravagant praises from its admirers; but will it bear any comparison with English poetry? No doubt, it affords passages replete with imagination, with splendid imagery, and with the richest and most elegant versification; but the mass of what is denominated poetry among the orientals, consists of redundant epithets, far-fetched allusions, overstrained expressions, and even absurd quibbles; much in the style of what Swift has ridiculed in his "*Martinus Scriblerus on the Peribathos*." The passages there quoted, bear such a resemblance to the style of oriental writing, that one might almost fancy they were translations. As to logic, if by that term be understood the art of writing and speaking correctly, it is to be acquired by application in almost any language, since the best guides are common sense, a grammar, and a dictionary. Which, then, of these four foreign languages afford the most instruction for the benefit of those whom it is proposed to educate?

Among the arguments adduced by the advocates for teaching the natives of India the foreign oriental languages, namely, Persian, Arabic, and Sanscrit, the plainest tell much stronger against than in favour of what they propose. One of the most

strenuous for the plan observes, that it was the circumstance of Latin being the language of knowledge, which kept Europe so long in a state of ignorance. It seems to have escaped him, that that argument is equally strong against making *any* foreign language, in any country, the principal vehicle of knowledge. He also says, that, by teaching the natives of India English, we almost put a stop to indigenous writings; and that their compositions in English chiefly consist of imitations from the books they have read. He forgets to inquire whether their compositions in Sanscrit, Persian, or Arabic, merit a better character; and there are few among the English who are competent judges of the matter. Most of us can detect the poverty and want of originality of a work in our own language, but how many of us are qualified to give an opinion on the merits of a work in the oriental tongues? Another argument in their favour is, that for many ideas, and almost all the terms of art and science, the vernacular language of the natives has no words; and that these must be introduced from a foreign tongue,—*therefore they must learn a foreign tongue in order to study these sciences*; and, further, that this foreign tongue must be Arabic or Sanscrit. This is anything but a logical deduction. Are not almost all our scientific terms in English derived from the Greek and Latin? Yet it is very possible for a man to be well acquainted with chemistry, medicine, and the other sciences, who is ignorant of those languages. The terms required have been adopted into our own tongue, and the explanations of their meanings are given in English, so that they have virtually become English words. It is precisely the same when we acquire a new idea, or discover a new article for domestic, or any other use*. If the idea, or the article, be of foreign importation, we commonly adopt the designation we find attached to it; if of native manufacture, we invent a term, which, in either case, being published with the signification affixed, is universally understood, and becomes part and parcel of the language of that country into which it is introduced.

* More familiarly, how many years is it since *steamer*, to *steam across the ocean*, or *macadamize* a road, has been heard of? When we have gained an idea, we shall not be long in finding a word to express it. Words without ideas are useless.

In accordance with the progress of ideas and discoveries, new terms of art, verbs, nouns, substantives, are daily introduced into our own language. Take, for instance, our official and common correspondence and conversation on Indian affairs. It is so crammed with oriental words as to be totally unintelligible to an uninitiated Englishman. Yet any one with the help solely of a glossary might acquire a very accurate knowledge of the proceedings of our British-Indian courts of justice, without learning any oriental language. Again, it is asserted that Persian, Arabic, and Sanscrit, are not, *strictly speaking*, foreign languages in India; also, that a work in any of the vernacular languages of the country will only be of partial utility; whereas, if written in either of the above three languages, it will form a boon to the scholar all over the East. On the first of these points, the words “strictly speaking” form a very saving clause: it is strange that infatuation and self-deception can be carried so far. The Persian, Arabic, and Sanscrit languages are, to the whole of the continent of Hindostan, as much foreign, as the French, Latin, and Greek, are to the English; or, indeed, to the European world. The cases are precisely parallel, inasmuch as Persian and Arabic are the living languages of the country in a portion of the East, as French and Greek are in parts of Europe. Indeed, it is probable that the proportion of Europeans who understand the three latter languages, is infinitely greater than that of the natives of India who are conversant with the three former: yet who in his senses would propose to publish works intended for the general instruction of the people of England, in either French, Latin, or Greek? On the second point:—it may be a very philanthropic design to enlighten the Arabs and Persians; and when we have performed the duties which lie nearer home, it will be time enough to turn our attention that way; but our first object ought to be to promote the education of the people over whom we are placed; and the only possible means of effecting this, to any extent, will be by means of their own vernacular languages. The endeavour to prove that Persian, Sanscrit, and Arabic, are not, *strictly speaking*, foreign languages in India, is supported by quoting passages in the vernacular tongues in which are found words introduced

from the former. Did the writer never consider the variety of languages which have been combined to form what is now called English? Saxon is certainly the ground-work; but it is impossible to write a sentence of any length in our own tongue, without the introduction of words which were originally Latin, Greek, or French. Yet, will it be asserted that a foreigner cannot learn English without first studying any or all of these languages? Take the following sentence for example:—"The science of geology is well worthy the attention of the people of England*." In this short sentence, how many foreign words are introduced; but no one will declare that the mere English scholar, provided he were well acquainted with his own language, would not understand it.

The fact is, that, instead of taking for our guide common-sense, we have hitherto been led away by an oriental mania, which took its rise from the circumstance of a few learned and distinguished men in the last century having devoted themselves to the study of eastern literature. The splendour of a genius like that of Sir William Jones, and the applause which his labours received from all the literati of Europe who were engaged in the pursuit, conspired to throw over it a false lustre, which the ardour of his imagination contributed to heighten. Few were capable of appreciating or estimating the real value of the study; and the world in general took it for granted, that men of such acknowledged ability must be the best judges of each other's merits, on which they mutually bestowed such high and flattering encomiums†. They forgot that "all have their hobbies,"—and the students themselves, after so many years of application and industry, even though they might have discovered the compara-

* An argument, in the spirit of some that have been made use of, might easily be brought forward to prove the English language to be a jargon; we have only to write this sentence thus:—"The *scientia* of γεωλογία is well worthy the *attentio* of the *populus* of England." The circumstance that several languages unite to form the English, has, by competent judges, been considered as one main source of the

richness of ours. Yet the Hindostanee, in which the same cause has been at work, many choose to pronounce a jargon. When the latter shall be brought into use, so that there will be an inducement to study, and compose in it, it will very soon vindicate itself against the accusation of being a jargon!

† See the letters between Sir W. Jones and his foreign correspondents.

tive inutility of their labour, could not but cherish the pleasing associations of their early enthusiasm, and would be reluctant to own that their time might have been devoted to more useful purposes,—and thus the spell has never yet been broken*. But if the cool and dispassionate opinion of those best qualified to judge at the present moment is of any weight, there can be no doubt of the fact, that if general knowledge of any description be the object of their pursuit, there is little or nothing to repay the toil of oriental study†. There can be no objection to an independent man, of literary inclination, devoting his time to its acquirement. He may, perhaps, ultimately discover a grain of wheat among bushels of chaff‡; but to all who are engaged in the common affairs of life, beyond what is requisite to transact business with the people of the East, oriental studies are just so much time misapplied. The acquisition of Persian, Arabic, or Sanscrit, is assuredly not the best means of communicating with a people the mass of whom are totally ignorant of those tongues§.

* Numerous instances might be adduced to show how prone we are to over-estimate the importance of any study on which we have spent our time. A most striking one is to be found in Col. Tod's History of Rajast'han, a work full of talent and research. It seems the Rajpoots claim to be descendants from the sun. In a history of the people, it would be proper to mention this as an additional proof of the absurd vanity of rude nations, but the mere fact would have been quite sufficient, without giving the whole fabulous genealogy. What should we think of a man who, in writing the history of Africa, should not be content with informing us that the kings of Timbuctoo traced their descent from king Bugaboo, the offspring of an amour between the sun and the moon, a hundred and fifty millions of years ago; but who should proceed to record the genealogy and acts of the respective kings,—how king Bugaboo reigned twenty-five thousand years, and was succeeded by his son king Cockatoo, who, after a bloody war between his two sons, Bangboo and Dangboo, was succeeded by the latter, who reigned fifty

thousand years, conquering mighty kingdoms, warring with the gods, &c., &c., till he came to the present occupant of the throne, king Tomboy, who, in a sailor's check shirt and trowsers, and an officer's cocked hat, gains a livelihood by diving down gangs of miserable wretches, and selling them on the coast to the European slave captains. Such matter as this would be just as well worth publishing as that with which Col. Tod has filled (if I recollect right) some sixty pages of his work. Quarto books are easily made in this way.

† See some excellent remarks of Heber's on this subject, in a letter to Mr. Wilmot Horton, March, 1825.

‡ If there should be anything worth knowing, relating to the laws or customs of the people, for there is little chance of making any other discovery, let it be well translated, once for all, for the benefit of the community. This would be much better than expecting the whole to learn Arabic or Sanscrit.

§ It is said that the knowledge of Persian, Arabic, and Sanscrit, will assist a person in acquiring the vernacular tongues. Certainly, if he happened

The next division of the subject is, the character that is to be employed in expressing the language; and here, while discussion runs high as to which of the foreign letters, English or Persian, are to be adopted, we are in danger of altogether forgetting the simple fact, that the majority of the people of India have already a written character, well known over almost the whole continent; and that its main features are the same, although some slight modification in the shape of some of the letters exists in different provinces. This is another of the numerous instances which might be quoted to prove that we are far too apt to look upon natives as a set of uncivilized barbarians. It is observed, that letters are by far the easiest part of a language. Be this as it may, we shall find it nearly as hard a task to compel a whole nation to change their written character, as to make them adopt a new language. The Persian conquerors attempted the former expedient, precisely in the same spirit that they endeavoured to effect the latter; but that the English, who are considered a civilized nation, should think of imitating their example, certainly is not the best mode of proving their claim to the title. To what possible benefit is such a change contemplated? To enable a few Englishmen, who are too indolent to learn the native written

to possess the former knowledge, it would be so much gained; but this is not the point. The question is, would a man be sooner qualified to transact business with the people of Hindostan by applying himself at once to that language, or by first learning Persian? Would he sooner be able to communicate with the Bengalees by learning their language, or by first studying Sanscrit? We had practical proof of the latter some years ago, in the college of Fort William; it was a sort of mania among some of the Bengalee students to give the preference to Sanscrit; in consequence, many of them, although they studied harder, were some months longer in college than those who proceeded in the rational way of qualifying themselves to communicate with the Bengalees by learning their language. After they had learnt, say five hundred words of San-

scrit, they found that this knowledge enabled them at once to understand, say three hundred words of Bengalee; they had still two hundred words of the latter to learn, to bring them on a par with those students who had followed the rational plan of qualifying themselves for the public service. A knowledge of Latin and French will greatly facilitate the acquisition of Italian to an Englishman; but if a man's sole object was to transact business in Italy, it would be a wiser plan at once to study the Italian. A knowledge of Latin and French would also facilitate the acquisition of English to a native of India; but if one of these were on the point of going to England for business, would any one in his senses recommend him first to study Latin and French, or at once to begin with the English language?

character, to write a sort of mongrel Hindostanee*, and to facilitate the studies of a few score of youths at Delhi, who have been instructed in a mode at variance with that in any other part of the country, or, indeed, of the world. For this, an attempt is to be made to induce a hundred millions to change the written character which they have used for centuries!

The reasons given are curious. The Roman character (which is itself a modification from the Greek,) has spread from the small territory of Latium, over the whole of Europe, the American continents, and even to the South-Sea Islanders. This is true,—and why? At the time when the Romans made themselves masters of Europe, it is doubtful whether many of the barbarous nations whom they subdued possessed any knowledge of letters. The majority certainly had none; what did exist was known to a very small number. These, with numerous arts and sciences, were introduced by the conquerors, who, of course, attempted to introduce their own letters and language: the former succeeded, because it had nothing to supplant. The latter failed, because the conquered people had already a language of their own. The same reason has effected the introduction of the Roman alphabet into the South-Sea Islands. The inhabitants of these islands were ignorant of the art of writing; and were taught it by men who use the Roman character. In such a case the teachers must either have adopted their own letters in the instruction of the people or have invented new ones; and the former was the simpler and easier plan. But how weak must even the originators of the proposed plan perceive the reasons in its favour to be, when they instance the use of the Roman letters in the American continent. Could they expect that the European emigrants to the New World should leave behind them their language and letters, and either invent new ones, or adopt those of the savages (if, indeed, the latter had any letters,) whom they had supplanted? Yet, that they did not do this, is to be made an

* A cavil is made at the word Hindostanee. It may not be a native term for that dialect, which is strictly called Oordoo. But according to the genius of the English language, there can be no impropriety in our applying the term Hindostanee, to the language of the people of Hindostan. At any rate it is now become a naturalized *English* word.

argument for the attempt to force a foreign language and character on a nation who have been acquainted with the use of letters for centuries! It is acknowledged that the Roman alphabet does not contain symbols to express the pronunciation of oriental words. This difficulty is to be obviated by the invention of signs and new letters. The more simple plan of taking the letters which already existed, adapted to the pronunciation of the Eastern languages, is overlooked* So far from endeavouring to introduce the Roman alphabet to express oriental words, it would, of two extraordinary schemes, be the better to publish English books in the oriental character, adapting the latter, as far as practicable, to our language. This would, at least, enable some to acquire a colloquial knowledge of English, who might not have time to bestow more attention on the subject. Notwithstanding the absurdity into which Gilchrist's enthusiasm led him to carry his propositions, there can be no doubt that his works have induced many to acquire some colloquial knowledge of Hindostanee, who, otherwise, would have remained in entire ignorance of it. But there is no royal road to the acquisition of foreign tongues, any more than to geometry; and those whose business or inclination leads them to such studies, must be content to go through the toil of learning by regular steps.

As to the prospective vision of the amalgamation of the English and oriental tongues till they form one universal language,—doubtless the composite construction will remain as a monument, when the original materials of which it is to be formed shall have been forgotten,—BUT NOT TILL THEN†.

What, then, is the course which those among the English should adopt, who have really the instruction and benefit of the people of India at heart, and what is the most practical and rational means of effecting it? Simply, these,—First, To esta-

* The difficulty of making a correct alphabet of the Roman character for expressing oriental words, or, at least, of teaching people to adopt one, seems to be overlooked. Forty or fifty years have not been sufficient to introduce among educated Englishman an uniform way of spelling oriental words.

† One of the visionary enthusiasts actually entertains (or did entertain) the expectation that this will take place!

blish schools for instruction in the different branches of knowledge, in the vernacular languages and the written character of the country. Second, To translate books of information, on various subjects, into those languages and letters. And, thirdly, To give to all who have leisure and inclination to extend their studies, the means of acquiring that foreign language from which the most general information is to be obtained,—that is, THE ENGLISH. This is, at least, quite sufficient for a beginning,—what other languages may be encouraged, must depend upon time, and the inclinations and abilities of the people.

With regard to the written character of the people that should be adopted, common sense would suggest that all visionary schemes of universal letters must be abandoned. That alphabet must be preferred which is already in use in the different provinces. The Bengalee for Bengal proper; the Nagree for Hindostan; and so on. A great misapprehension still exists as to the varieties in the form of the letters to which the latter is subject. This is not, in reality, greater than the variety in the forms of the written Roman letters which exist in the English, French, or German writing, as a very little examination will convince my readers*. Indeed, the different construction of letters to be found among the English alone is fully as great as in the Nagree. We have our capital and small, Roman and Italic letters; our old black letters, or German text; and in our manuscript writing, as great a variety as fashion or individual character can produce. There are in common use two modes of forming, respectively, an A. F. G. K. L. M. P. R. S. T. and W., nevertheless the foundation of the alphabet is the same, and any one who is well grounded in that, easily deciphers the varieties. The case is similar in the Deva Nagree. If any one will make himself thoroughly master of the alphabet published in Shakspeare's Grammar, he will find that a very little trouble will enable him to read Nagree writings, from almost every province on the

* Let the Englishman who is the best French, German, or Italian scholar, but who has *only learned those languages from printed books*, take up a letter from a native of either of those countries on any common subject; he will find great difficulty in reading it, so different is their mode of writing from ours.

continent of India*. Even the hieroglyphics of the merchants (called *mahajunee*,) are traceable to the same source. Were many printed books published in this character, the varieties of the letters would soon be greatly diminished.

With reference to the remark, that although, in some cases, the people have the option of using the Nagree or Persian character in their writings, by far the greater number prefer the latter,—I must observe, that it is true; and the reason is plain. Those who in India learn to read and write are divided into four classes.

1st.—The remnant of the old Moosulman families of rank. These naturally prefer Persian and Arabic, in the same spirit that a mixture of prejudice, old feelings and recollections would, after our supposed subjection by the Africans, probably induce us to educate our sons in French, Latin, or Greek, in preference to the language of Timbuctoo, even although the latter possessed more sources of knowledge than the others. The number of this class is very few.

2nd. The pundits, or learned Hindoos. These naturally affect the Sanscrit. Their numbers, also, are very small.

3rd. The shopkeepers, village accountants, and merchants, who write the Nagree, Bengallee, or other local languages and character. These learn just enough to enable them to keep their accounts, and draw bills upon each other: more would be useless, as long as there are scarcely any books in the language and character worth reading, and the knowledge of this character does not open the way to any employment. Their numbers are very great.

4th. The expectants for official employments, and for offices about the colleges. These are numerous, but not nearly so as the last-mentioned class. They make considerable proficiency, because they have an inducement to do so; and they learn Persian,

* The long list of Nagree double, treble, and even quadruple letters, there published, might frighten a beginner; for, at first sight, they appear as formidable as Chinese hieroglyphics. On analyzing them, however, they are simple enough to one who is well acquainted with the primary letters. Besides, the truth is, that, in common practice, not a twentieth or thirtieth part of them are ever used. Shakspeare has published them more as a matter of curiosity, to show what extraordinary compounds *could* be made.

because that is ordered by Government to be the language of the courts and offices in which they aspire to be employed. The first two classes being hitherto excluded by the system of the British government, the whole general business of the country falls into the hands of the fourth class; it is, therefore, no wonder that Persian should be the common, as well as official medium of communication. If Government were to order that Hindostanee and Nagree should be the official character, the whole of the fourth class would immediately learn it, stimulated by the hope of official employment; the second class would improve their knowledge of it, whereas, they have not sufficient leisure, from their daily business, to enable them to acquire an entirely different and extremely difficult language, such as the English; the two first would, under the more liberal system which has lately been introduced, soon follow the general current, and Persian would very speedily be as much disused as Arabic and Sanscrit are at present. It is very doubtful if, in the whole of the Bengal presidency, containing sixty millions of inhabitants, there are five hundred who are sufficiently acquainted with either of those languages to be able to read the easiest book for their own pleasure, without the aid of a dictionary.

March, 1834.

No. XXXI.

ON THE BEST MODE OF ASCERTAINING THE CHARACTER
OF PUBLIC OFFICERS.

SOME time has now elapsed since the publication of the order of the Governor-General in council, professedly for this object. Of itself, it supplies matter for much consideration both to those immediately concerned, and to the public at large; but, coupled as it is with the minute of the Governor-General of January 15, 1834, on which the order is founded, it will enable us to inquire what is demanded, and the best means for attaining the object.

Let us first examine the observations in the minute. The three first paragraphs assume that there is, in the present day, a much greater call for talent and application in the officers of Government than there was forty years ago. The reasons given are, that the natives are growing more intelligent, and that the free settlement of Europeans is now to be allowed. In one point of view, there is much truth in the assumption; in another it is utterly incorrect. Is it meant to be asserted that there was then much less business in the courts and offices of Government than now exists? We have seen from official reports that the number of district judges is forty-nine; that, on an average, each has a tract of country subject to his jurisdiction, of seventy miles long, by rather more than sixty broad; containing 4,775 towns and villages, and a population of more than a million. It is probable that the population has considerably increased since that time; but, on the other hand, the number of the judges was, in former days, less than it is now; so that, although the number of inhabitants in each district was, perhaps, something less than at present, the size of the provinces must have been greater, which would bring the difficulty of properly administering the affairs of the country, and of attending to the wants of the people, to much the same standard. But in those days, the judges were also magistrates, and the natives of India are almost universally accused of litigiousness. The collectorships, too, were on the same scale. Does the Governor-General suppose that, under such a system, justice was properly administered to the satisfaction of the people in those days, or that the abuses which are now so loudly complained of, have only existed of late years? To undeceive himself, he has only to read the reports of the different judges of circuit, between 1793 and 1809, many of which are published in the Appendix to the Fifth Report of the Committee of the House of Commons. He will there find a most lamentable picture of misery caused by the utter inefficiency of existing establishments, and by a virtual denial of justice. *Then* complaints were loud, because some credit was given by the people to our professions of a wish to remedy their grievances, and improve their condition: after that time, the hopelessness of

despair diminished the cries for redress. Now, again, the fever of desperation causes them to rise with redoubled energy. It is not that there is more to be done now, but that so much cannot, with impunity, be left undone; and here his lordship is right enough in alluding to the increased intelligence of the natives, and the projected settlement of Europeans. The former have a truer perception of their own rights, or, more strictly speaking, a stronger determination to have them attended to; the latter will now be unrestrained by the fear of *transmission without trial*. To both the press is open, and the day is passed when it could be fettered as it was before; and we may rely upon it, that neither will, in future, submit to misrule with the patience they have hitherto displayed. The real lesson which our rulers should learn, if they would take timely warning, is, to increase the courts, so as to establish a possibility of justice being duly administered; an utterly hopeless case, under existing circumstances.

The fourth, fifth, and sixth paragraphs allude to the evils of an exclusive service; and a proposal is made to remedy this by applying a stimulus to exertion. This is to be done by fixing a standard of efficiency for every grade of the public service, to be followed by a declaration that no person, whatever be his standing, shall be appointed to succeed to a vacant situation, unless he be considered properly qualified to do justice to the trust about to be confided in him. The observations in these are good, and the principle to be introduced equally so. Provided it be properly acted upon,—used, but not abused,—it will almost effectually annihilate one great cause of complaint, which (but for the admission contained in the term “NEW PRINCIPLE,”) I might hardly have ventured to advert to; namely, the little difference, in point of promotion, which has hitherto been made between the able and inefficient, the idle and diligent. Some instances to the contrary can, doubtless be produced; but the remark is by no means uncommon, that in the Indian, or, to speak within bounds, the Bengal Civil Service, a man has little inducement to exert himself beyond what the law obliges him, except in the approbation of his own conscience. This, and the attachment

and esteem of the natives, is certainly in every man's power to attain, but I fear it will not do much when unaccompanied by the more solid rewards which it is the province of Government to bestow. Objections have been, (for it is not the first time the subject has been discussed,) and are, made to the introduction of the new principle. It is urged that a man enters the service under a tacit condition that he is to receive a provision in return for the renunciation of his home and friends, and devoting himself to the service of Government: undoubtedly he does, to a certain extent; but I am not aware that there is any covenant, expressed or implied, which guarantees that every young writer shall rise progressively to the highest situations, without reference to his qualifications or assiduity, whether he be able or inefficient, idle or diligent.

Such a principle would be the height of injustice to the people of India, and has, to the extent to which it has been carried, already produced infinite mischief. Every man who enters the service, is, unless he be absolutely deficient, or be guilty of corruption, or other crime sufficient to warrant his dismissal, entitled to a certain provision; but, beyond this, it is not very apparent what claim he has, as a matter of right, unconnected with proper qualifications. Surely, the interests of so many millions of native subjects demand some attention! Many a man is fit for subordinate situations, where the duties are easy and the responsibility small, who would be totally unqualified for higher employment. In the army, by way of illustration, is it any novelty to find a man who performed the duties of adjutant so as to give entire satisfaction, yet, who was a very inefficient commanding-officer, when he afterwards rose to that rank? Are there no instances of men who, as colonels of regiments, distinguished themselves highly, yet, as generals, proved quite incapable of commanding a division? The same observation will hold good in all services. Let those of slender abilities be confined, on moderate salaries, to situations, the duties of which they are capable of conducting; and let the higher offices be conferred on men who have proved themselves qualified to hold them efficiently, and to give satisfaction to the thousands whose interests are

committed to their charge. Were this arrangement duly carried into effect, and sufficient provisions enacted to prevent its abuse, and the undue exertions of patronage in favour of friends, to the detriment of the welfare of the people, the evils of an exclusive service, as far as the latter are concerned, would cease to exist; for, in reality, it would no longer be an exclusive service. The numbers of young men sent out to afford a sufficient selection, would be so much greater than at present, that the practical effect would be the same as if the service were declared open to all. The expense, of course, would be increased; and this, with the Court of Directors, will form a strong, if not insuperable objection, to the proposed plan; because, as the British-Indian government has, hitherto, been constituted, and, by the new charter, is destined to remain for twenty years to come, all diminution of disbursements will only benefit the proprietors of India stock, not the people of India; and, in addition to this consideration, should some of the sons, or nephews, of the Directors be among those unfortunates who should be destined to be passed over, the court will, probably, very speedily manifest an inclination to return to the old system.

The principle, however, is good, like many others that have been promulgated by the British-Indian government, but, like those, the execution is a very different affair. On this head, the first point to be considered is, the mode of ascertaining the qualifications of the different candidates, which is treated of in paragraphs 7 to 11 of the minute. The measure which it seems is chiefly, if not entirely, to be relied on, is a system of reports, to be sent in, by each functionary, of the one immediately subordinate to him. The subject of the reports is to be, temper, discretion, patience, habits of application to public business, knowledge of the native languages, and, pre-eminently, disposition and behaviour towards the people, high and low, with whom the functionary is brought into official contact. We must now inquire, whether the points to be touched on are all that is required. The collector and magistrate is to report upon his deputy and assistants; he, certainly, has opportunities of ascertaining their qualifications; but, as to the comments of the

commissioner, whence is he to collect information to enable him to give any? He has no time to examine whole files of proceedings, in cases decided by the deputy, or assistants; and he can only assent to what the magistrate says, or give an opinion, founded on the intercourse of private society. This, too, will only hold good with respect to the officers of that district in which the commissioners' head quarters are situated, since many of these latter devote so little time to visiting the other parts of divisions, that they know nothing of what goes on, except from form and reports. There is much the same difficulty in the reports which the commissioner will indite, relative to the collectors. As long as they are only drawn from official documents, very little reliance is to be placed upon them; and the difficulty will be still greater, which the courts and boards will find, in giving a character of the commissioners and sessions' judges.

It may almost be taken for granted, that an opinion of a subordinate functionary in India, drawn solely from official reports and forms, can but, in a very slight degree, be relied on. Yet, this is the only foundation for the estimation in which every man is, henceforward, to be held by Government. Many a very efficient officer is held in low estimation by the superior authorities, from some little accidental circumstance, or by inattention to a form, while others, who are quite the reverse, have, by a little tact, contrived to obtain a very tolerable character for efficiency. On this point a little detail is necessary, which will be best illustrated by examples. I was acquainted with the state of two districts which, by neglect, had become in the greatest disorder. The civil business was almost at a stand; and the police had become so lax and insufficient, that the most atrocious robberies were of nightly and even daily occurrence. Two men who stood high, and deservedly so, in the estimation of Government, were selected to establish some order, and correct the existing evils. Both effected wonders, chiefly in the police departments, to which their attention was almost wholly directed, but the result to each was very different. The one, Mr. A., was highly praised by the superior courts, and repeatedly received intimations of the favourable notice of Government. The other, Mr. B., was

continually receiving reprimands, was called upon for constant explanations; and, finally, a person was appointed to inspect and report upon his proceedings, until at length he was almost tempted to throw up the appointment in disgust. Both were unavoidably obliged to have recourse to some strong and even harsh measures; but I believe that, on the whole, the real merit of each was about equal. What, then, was the reason of the different treatment each received? It was this: Mr. A. pursued his measures quietly, “without making any *fuss*,” as it is called, so that the good was effected without causing any display, which, when the correspondence was sent home, might excite the attention of the Court of Directors to the previous infamous state of the district. Mr. B., on the other hand, was a little too fond of referring to the former state of things, which of course reflected on the individual who had previously held the situation; and *he* happened to have “a friend at court.” Besides which, Mr. B., occasionally, in his reports, cast reflections on the superior courts.

In another instance, two neighbouring districts were in an equal state of anarchy, and had been so for three or four years; yet, the real state of one was well known, while the other was supposed to be in most excellent order. The reason was this:—In both, the robbers and thieves were connected with the officers, at the head of the court and police, and in both only a small number of the crimes, actually committed, used to be inserted in the periodical reports; but, in the one, English gentlemen had been often robbed, in the other, such an occurrence rarely took place. The bad state of the former, consequently, was blazed all over the country; in the latter, the managers of the robberies and other crimes had discovered, that, so long as the English were unmolested, they might perpetrate all sorts of extortions, oppressions, and robberies against the natives, for a long time, with impunity. If we are to take the reports of English travellers generally, we shall not arrive at a very correct conclusion. Their idea of the state of a district is usually formed from the difficulty, or facility, which they experience in procuring, without any trouble to themselves, supplies for their camp when marching;

and the readiness with which the police lend their aid to enforce any demand or requisition. The result is, in reality, under the existing state of affairs, that those districts sometimes bear the best character, in which the servants and followers are allowed to practise, to the greatest extent, the oppressions and extortions alluded to in No. XXV. of these papers, which treats on the system of purveyance and forced labour.

There are various modes besides efficiency, by which a public officer may contrive to acquire a considerable estimation in the eyes of the superior authorities. One of the most simple is, to be very particular in transmitting the periodical forms and reports on the precise day on which they are ordered to be prepared, and to answer, without delay, any letter that may be received, or explanation required. Provided a commissioner do this, and that the revenue, in his division, be regularly and fully collected, the Chief Court and Board do not look much further; indeed, they have very little means of judging, if they should attempt to form an opinion of the real state of the division; for, unless the increase of crimes be something very remarkable, it is not difficult to devise reasons and frame excuses which pass current. Besides, although it may not so often be done now, it was by no means uncommon, formerly to insert in the reports only a portion of the crimes which were actually committed. The same observation holds good with regard to the Sudder Dewanee*, and the civil and sessions' judges. It is not very difficult for the latter, by adopting the same sort of means, to keep up appearances, and yet give very little satisfaction to the suitors. An instance may be mentioned of a young man, who brought himself into notice in the following manner:—The Governor-General was on his tour; he called on one of the secretaries for a report on a particular subject. The latter asked the opinion of the young man above-mentioned, and he, having first discovered the sentiments of the secretary, framed his reply accordingly. The consequence was, that he was pronounced, by the secretary, to be an extremely able and intelligent officer, and he shortly after received his reward, by being promoted to a superior employment,

* Chief civil court.

In paragraph 11, an allusion is made to integrity. It is pleasing to find, that the idea of the general dishonesty of the servants of Government, which common report had attributed to his lordship, is disclaimed by him, and that he allows the uprightness of principle by which his official subordinates have hitherto been distinguished. On paragraph 12, it is sufficient to observe, that, it is to be hoped there are but very few who would not wish to benefit the people over whom they are placed. The object should be, to teach them how to perform this duty*.

There is also another point worthy of remark. Lord William Bentinck has, during his administration, hitherto kept almost the whole patronage of appointments in his own hands, avowedly for the benefit of the public service; and has manifested a considerable jealousy of every recommendation from the suspicion of interested motives. The impossibility of the head of the Government, who rejected all ordinary means of information, being really acquainted with the true characters of the different members of the service, particularly the juniors, was long ago apparent to every one else but himself. He has at last been convinced of it, and has recorded his own acknowledgement of the truth. The inefficiency of secret reports now stands confessed, and the experiment having failed, it is hoped that this will be the last attempt to introduce a system which is calculated not only to throw discredit upon its employers, but to disgust all those whose sense of honour and integrity is not entirely destroyed.

The plan, in short, which is to be henceforth adopted, with a view to increase the efficiency of the public service, and to enable Government to distinguish between the deserving and undeserving in the future distribution of its patronage, is to require a series of public reports from each rank. How it will answer its object remains to be seen. The great drawback is, that, under the existing state of things, such reports will furnish little or no criterion of character; while the system opens a wide door to the

* The assertion may perhaps startle my readers, but it is nevertheless true, that a corrupt civil officer, provided he be an able man, would cause far less evil than a negligent functionary, or one deficient in ability. This may be enlarged upon at a future time.

operation of private feelings, both to the advantage and the prejudice of those concerned. It is very rare when a man is (in common language) on good or bad terms with another in private intercourse, that the opinion formed by the former on the official conduct of the latter will not, though perhaps unconsciously, be tinged with the feelings which must exist between them. Besides this, the reports of the controlling authorities will be more or less influenced by their own characters, by the greater or less importance which they attach to different points of duty, and by their own habits of business. The nearer the conduct of the juniors approaches to this standard, the more favourable will be the reports which concern them. One man will deem that conduct worthy of commendation which another would only consider as the bare performance of duty. One is an advocate for the employment of spies in furtherance of police business, another holds the system in abhorrence. One conceives that private intercourse with the people will furnish much useful information relative to their characters and the concerns of the district; another, that this sort of proceeding is apt to prejudice the mind, and maintains the expediency of doing everything in court. One is of opinion that the eye of the magistrate should be everywhere, and that local inquiries tend much to elucidate a difficult case, because, when people are taken unawares, the truth is more likely to be discovered than when they have been tutored, as is too often the case, after their summons to a court of justice; another who, in his own time would never take any extra trouble, sneers at and decries such proceedings*. One considers the collection of the full revenue to be a matter to which all others should give place; another, whose sense of justice to the people is stronger, will think that their protection from robbery and oppression is at least worthy of a considerable share of attention; and so on with numerous other examples that might be quoted. It is obvious that, unless some detail be entered into, and reasons and explana-

* This is no exaggeration; and I have heard many soberly remark on the inutility of doing more than a man was legally obliged to do. Others have declared that they saw no benefit in *personal activity* on the part of a judge or magistrate; the plain English of which is, that a man who takes trouble will do no more good than one who does not,

tions given for the opinions communicated, Government will be full as likely to be misled by the statement they will receive, as to gain a true insight into the conduct and characters of their servants. It is gratifying, however, to perceive that the Governor-General disclaims the wish to establish a system of espionage; and it is only to be lamented that he did not adopt these sentiments some years since, and prevent the orders issued to the commissioners to transmit private reports on the conduct of those subordinate to them.

As a common measure of justice, every one has a right to expect that he will be supplied with a copy of the opinion of him entertained by his superiors, that he may at least have an opportunity of defending himself against unjust aspersions, and obtain the satisfaction of knowing that his conduct has been approved of; as well as the advantage of discovering wherein he may be considered deficient, which will enable him to correct what has been wrong.

It is impossible, however, not to assent to the justice of the Governor-General's opinion that something was absolutely necessary to be done. On the whole, the civil service has hitherto possessed full as much talent, application, and integrity as could be found in any equally numerous body of men. Many totally unconnected with it have placed it even on a still higher scale. The misfortune has been, that there has been little or no inducement to extra exertion, excepting a man's own sense of duty, and the esteem and attachment of the people; and that notorious incompetence and neglect was often allowed to pass almost unnoticed, while some petty matter of form, or what was construed into disrespect to Government, was sometimes visited much more severely than the offence deserved. I recollect a judge and magistrate who seldom attended his office above once a week, but when the cases were *prepared*, used to sign papers and pass orders at the direction of his head native officer. Of Persian this judge did not understand a syllable, so that it was impossible for him to tell to what he had affixed his signature. He was also greatly in debt to several natives of wealth and property in the district, who had the complete disposal of every situation connected with the court, and

of course employed their patronage either for the benefit of their friends, or by the sale of the employments. As may be supposed, the oppressions and extortions committed on the unfortunate inhabitants were endless : volumes might be filled with the details.

In the next district, the functionary was in the constant habit of intoxication, to such a degree, as to be carried to bed by his servants almost every night. He generally rose about one o'clock in the day, and after breakfast performed his official duties in the same way I have just described.

Not far off was a collector, whose whole time was spent in the amusement of sporting ; his business being confined to half an hour's daily work in signing papers. A little distance from him was another collector, who was extremely assiduous in the occupation of making turning-machines and repairing musical instruments ; but who did just as much business, and in the same way that the last-named individual performed it.

During the course of my experience I could point out about a score of instances as disgraceful as the foregoing, and a far greater proportion of those of minor neglect and inattention to the wants of the people*. How were such abuses allowed to exist ? Those whose duty it ought to have been to have checked them, must answer this question. Our courts of circuit, boards of commissioners, superintendents of police, were all in full operation, and periodical tours were made by the members. All that I have above stated was perfectly well known to these superior authorities, and the members of Government also. Yet the whole of these people were allowed to continue in their offices, and to rise progressively from one appointment to the other ! There seems to have been generally a feeling that it was better to pass over such things for fear of throwing discredit upon the Government by bringing them to light†, and where there was so little encourage-

* There is no occasion to run into extremes, because, in the course of a considerable period, one may have observed a score of such instances, and two or three score more of minor neglect ; and although there may have been others out of the sphere of observation of any one man, we need not suppose that the majority are guilty

of such shameful neglect of duty. During the same period, the number of men in the civil service will probably have exceeded a thousand.

† This feeling is a great deal too common in human nature ; it is much to be deplored, for it has done more to bring discredit on institutions and public bodies, than all that their worst

ment to do well, and so little fear of punishment for the evil-doers, the wonder is, that so much conscientious attention to duty was to be found. In the first-mentioned instance, the conduct of the functionary was at length brought to light, and not only everything that I have asserted, but much more, was fully proved on investigation before a commissioner. The punishment inflicted was, suspension from office for a few months,—at the end of which the individual was re-appointed to a higher situation*; yet, while such apathy was manifested to the interests of the people, a very slight inattention to some point of official etiquette often subjected the offender to severe reprimands, and sometimes he was suspended from his situation until an ample apology should be made.

But these, it will be said, are tales of by-gone days, and that things are very different now. This is much to be doubted. There is, undoubtedly, a greater show upon paper; but it may

enemies would have been able to effect. When we see attempts to screen men who have behaved ill, and to stifle inquiry, the world will always naturally suppose that the evils are much greater than they really are. On the contrary, when the heads of a department are observed to be the first to bring to light and to punish any misconduct, they will receive credit when they assert that there is no cause for complaint.

* The manner in which this was effected is worth noting. An important member of the Government was on a tour in the interior, and at the end of a tiresome journey alighted at the house of a person who was a friend of the officer alluded to. After the great man had dressed himself, and eaten a good breakfast, his host took advantage of that time when, as Capt. Hall says, "men are generally in the best humour, and more disposed to do kind things, after their minds and bodies have had rest, and before the cares of the day have ruffled their thoughts," and begged that some favour might be shown to his friend. In the warmth of the moment this was promised, and the promise performed. Yet, if punishment were to be mea-

sured by the evils which had been caused, hardly any that could have been devised would have been an adequate return for the miseries which that officer's conduct had inflicted on the inhabitants of the district over which he had been placed! What must the natives think of our professed zeal for morality, when they witness such proceedings as these; and at the same time see a native officer dismissed his situation, and publicly declared incapable of serving Government again in any capacity for what, compared with the above, would be but a slight misconduct. It may be observed, too, as to the effect of non-intercourse, and intercourse with the people, that, notwithstanding periodical visits by courts of circuit and other superior authorities, the functionary alluded to had pursued his infamous course for several years, not only without discovery, but retaining a fair character in the estimation of Government; until an officer visited his district, who was in the habit of allowing the natives free access to him. Yet it was not till four years afterwards, after the matter had been again brought forward by another officer, that the person was dismissed from his situation!

be doubted whether more is done at present than before. No new inducements to exertion have been introduced, nor is there greater fear of punishment. The present order and minute sufficiently prove the inadequacy of all the measures adopted by the Governor-General to ascertain the real character of the public officers; for had these been successful, the former would in all probability have never been issued. Insulated cases of extraordinary neglect, corruption, and inefficiency, are equally to be found in the present day. I could instance one officer, a civil and sessions' judge, who goes to office about six days in every month, just sufficient to enable him to hold the sessions: the rest of his work is done at home. The prescribed number of cases are got through within the month, and the miscellaneous and petition-file cleared off after a fashion, so as to keep up appearances with the superior court.

Another is greatly in debt to many of his native officers, and of course does not dare discharge any of them, whatever may be the extent of their peculations or extortions. A third pursues the same course of intoxication and neglect of duty which I have mentioned above. These, and I could give one or two more examples, have so acted for several years. It is notorious to all around, and I have reason to believe the superior courts are not altogether ignorant of it. During his late tour, Lord William Bentinck passed through the districts in which these officers reside, yet was unable to discover such notoriously improper conduct. I say, unable to discover, because, after the repeated professions of his lordship of zeal for the public good to the disregard of private feelings, had he been aware of the conduct of these individuals, they would doubtless long ago have been dismissed from their situations.

But, after such a picture of things, my readers may well exclaim, "What is to be done? It is utterly hopeless for our rulers to endeavour to discover the character of their subordinate officers; and are we to sit down in despair, and trust to chance for the administration of the affairs of the country?" By no means.—The object is to be accomplished, like most others, if people will go the right way to work. Neither the system of espionage, nor of

public reports upon the system at present established, will be found to succeed. There is one way, and but one way, of ascertaining the character of the public functionaries,—apply to those, of whatever class, English or native, who hold no Government office, and have no voice in the enactment of the laws, but who *feel their effects*, and who are thereby qualified to give an opinion on the operation of the Government systems. This test, as I have already had occasion to observe, (see No. XXVII,) if properly applied, will prove infallible; but it will require much attention and discretion, and no small portion of time in its application. It will not do for a commissioner to run through his district, and, after his tour, to inquire of his head-man, or perhaps of the lacquey who attends him when out shooting, what is the opinion of the people, or even to content himself with asking two or three of those he meets as to the state of affairs. This has, unfortunately, been too often the mode in which the “opinions of the people” have been collected; but if the inquiry is to be made, it must be done properly: the opinions of all classes must be collected, the probable reasons for their sentiments analyzed, and the whole compared and weighed together. There are several points which will strike the inquirer. If the police and the servants of English gentlemen complain that the magistrate is harsh, it is strong presumptive testimony to his efficiency; harshness in their mouths signifies the prevention of their extortions and oppressions. Should English merchants praise, while the natives complain, it is fair evidence that the former are somewhat favoured at the expense of the latter. If the police or the court-officers are uncivil to the English merchants and indigo-planters, it is a symptom of prejudiced feelings existing towards the latter on the part of the functionary. If the shopkeepers in the towns are satisfied, while complaints are loud from the gang of self-constituted weighmen, watchmen, choudries, &c., &c., all this is so much to the magistrate’s credit; with an innumerable variety of other examples, which practice will soon teach.

The more that can be learnt incidentally, without making direct inquiries, the better. It is long, indeed, before a native acquires sufficient confidence in an English Government-functionary to speak

his mind before him ; for which there are many reasons which will easily suggest themselves. I was once encamped close to a small village, and asked two or three people, who were near my tent, some questions about the state of the district, from whom I received loud complaints of the inefficiency of the judge, and of the want of justice in his proceedings. They supported this by several instances of cases in which the informant's suits had been dismissed, and themselves fined by the collusion of the opposite parties with the officers of the court. "A shocking picture," I mentally exclaimed. Not long after I overheard a dispute between two people relative to the demand of a debt, in which it appeared that promises of payment had often been made and as often broken. At last the creditor declared that he would wait no longer, but would positively file a suit forthwith in the court ; on this the other promised most sincerely that the money, or the greater part of it, should be forthcoming on the following day, if he would only wait till then. There was new matter for reflection. If the judge be really so inefficient and the court so corrupt, how comes it that a threat to have recourse to it by the *honest* party, immediately causes the *dishonest* man to come to terms ? On further inquiry I found that the judge was one of the most able and indefatigable in the country, and gave entire satisfaction to the well-disposed. The three first men to whom I had spoken were part of a gang who had long gained a livelihood by getting up false and unfounded suits, to the terror of their neighbours, but who had at length been discovered and punished by a heavy fine.

But, unfortunately, the majority of the Government functionaries have not leisure to devote a sufficient portion of time and attention to communicate with the people ; besides which, if they had, with the exception of the commissioner and civil judge, who reside at the same station with the superior board and court, all the others are out of the reach of any inquiry by the latter, who never quit their own station. Some other plan must, therefore, be devised ; and I will venture to suggest one, which will at any rate be better than that which it has been proposed to introduce.

This is, to establish a test of proficiency for each grade of the public service. A regular examination *viva voce* is, in the scattered nature of the service, wholly out of the question. Much, however, may be done by papers. For the first appointment of a young man there is the test of languages, which may remain as it is. The next would be, that containing the qualifications for promotion to head assistant. For this purpose let a formula of some hundred or two hundred questions be prepared, as to what are the provisions of the Regulations on various subjects. The same on the mode of doing business, on the Moosulman law, Hindu law, customs of the people, &c. Whenever a young man thinks he can pass the test, a selection of these questions, ten, fifteen, or fifty of each subject should be written out, and, together with some exercises in the oriental languages, sent up to the commissioner, who, with one or two as a committee, should send for the young man, place them before him, and, in the presence of the committee, without any assistance, require him to write answers, and perform the exercises. The result of his labours, together with copies of eight or ten proceedings and decisions held and passed by him, should be transmitted to the secretary to Government, by whom they should be referred to a competent person, or to a committee; the latter, without knowing whom the papers concerned, should pronounce their opinion upon them. The same plan might be adopted with head assistants who aspired to the office of deputy; deputies who thought themselves competent to take charge of a district; and collectors who were candidates for a commissionership; except that, in each of the latter cases, the questions should be of a more difficult nature. The commissioners* and civil and sessions' judges might also be subject to a test on a similar principle. Doubtless this plan is open to many improvements and objections: but it contains two important advantages. First, There will be

* This would be more necessary than might be supposed; some three or four years ago, half-a-dozen individuals holding the situations of commissioner or judge of the court of appeal might have been mentioned,

who would probably have found it difficult to pass a test sufficient to entitle a man to the situation of deputy collector. One or two might still be now pointed out.

something definite on which to form an opinion, instead of a mere vague report; secondly, it will utterly exclude all room for partiality. The only point not specially touched upon is, behaviour to the people; but a knowledge of their local and every-day customs cannot be gained without considerable intercourse with the better sort; and this, of all things, is the best mode of inducing kindly feelings towards them.

There are some other points of a minor nature, by attending to which considerable emulation might be promoted: at present, the district officers are often totally ignorant of the estimation which they are held by the superior courts and boards. A collector and magistrate is not always told what the opinion of the court or the higher authorities is, in regard to the state of the district: and a civil and session judge very rarely receives any information on the subject. A man who has been working extra hours, and has done three times as much as his neighbour, receives no reply to his annual statements in which the result is communicated: for anything he knows, they may never have been looked at*: while the negligent man who receives a severe reprimand, is very careless about it so long as it be not published to the world: with this proviso, a man, who with his eyes open, will act so as to *deserve* a reprimand, is generally callous enough not to feel the shame of it.

The best plan at present within reach, therefore, to promote the efficiency of the public service, will be, to establish tests of such a nature, that, without fear or favour, it may be in the power of any man to prove his eligibility to a situation: as a supplementary incitement, some notice should be taken, to point out to the world those who had neglected their duty; those who had

* The 'real mode in which these reports are inspected is too often as follows:—The members of the superior courts cannot, from pressure of business, attend to those matters themselves: the reports are inspected by one of the clerks. If the prescribed number of suits, or quantum of business, has been performed, they are consigned to the record-office, for another clerk to concoct the summary

to be despatched to Government; if not, a letter according to form is drawn out for the registrar or secretary to sign, calling on the negligent functionary for an explanation.

N.B. This has since been partially remedied. In the judicial department, officers are informed of the estimation in which they are held by the superior court.—1835.

done just enough to avoid censure; and those who had really exerted themselves in the discharge of their duty, without reference to the sacrifice of their own time and ease. This at least will be productive of some benefit, until a plan can be devised to ascertain the character of public servants from those only who are competent judges—the people whose lives, fortunes, and happiness depend upon the due administration of the laws by which they are governed. In the mean time, the press should exert itself, to mark every instance of good conduct or neglect of duty: and by a plain unvarnished statement of *facts* prove, that their object is not to detract from individuals, but to promote the benefit of the public at large.

In conclusion, let me observe that the subject is not yet exhausted; and there are, doubtless, many points connected with it which may have escaped the attention of the writer of these Notes. The great importance of it should induce others to offer their remarks and suggestions: but, whatever be the plan ultimately adopted to improve the officers of Government, at the risk of repetition, it should again and again be urged upon our rulers, that, until the number of officers be increased, and the size of the districts diminished, it is physically impossible for human power to administer the affairs of the country, so as to allow the interests of the people to be sufficiently promoted.

March, 1834.

No. XXXII.

SKETCH OF THE BRITISH-INDIAN ADMINISTRATION.

It will not be amiss, at the present stage of these papers, to take a summary view of the establishment and constitution of the British-Indian Government. This will resolve itself into two heads. The establishment of our power in a political point of view, and the system we have introduced for the internal government of the country.

On the first head, a very short summary will be sufficient, for

those of my readers who take any interest in the subject will be well acquainted with its history; and others who have it yet to learn, will not find it difficult to procure the necessary information from the various writers on the subject, particularly Mill, whose work supplies the ground-work of this abstract.

The first step towards the acquisition of our real power in Bengal, was the retaking of Calcutta, by Lord Clive and Admiral Watson, in January, 1757*; previous to which, the East India Company's servants were merely the factors and clerks of a company of merchants. In March of the same year, Clive attacked the French factory at Chandernagore, against the will of the Nawab Suraj ood Dowlah. This had so irritated the latter, that Clive, perceiving there could be little amity between them, and having a tolerably strong body of troops, formed the plan of dethroning him. He began by corrupting his officers, and intriguing with Meer Jaffer Khan, to whom he offered the throne. This was followed by the battle of Plassey, on the 23rd June, 1757; the murder of Suraj ood Dowlah by the son of Jaffer, and the establishment of Meer Jaffer as Nawab; who promised large sums to the Company, the army, and navy, and as presents to the naval and military commandants, and to the superior servants of the Company. As, however, Meer Jaffer found considerable difficulty in fulfilling these promises, the English government began to think of the expediency of dethroning him also; and, having made arrangements with his son-in-law, Meer Casim, set the latter on the throne on the 27th September, 1760. The success of Meer Casim in paying the stipulated sums was so great, that by March, 1762, he had discharged the whole of his pecuniary obligations to the English; and had made considerable progress in introducing order into his territories; but, because he objected to allow the English to plunder the whole country, under pretence of trade;—and when they insisted

* The English had a partly-fortified factory at Calcutta. A revenue-defaulter took refuge in it, to escape punishment from the native ruler of Bengal; the English refused to give up the defaulter, and the Nawab (or

Nabob) attacked and plundered the English factory. Assistance was solicited from Madras, whence Clive and Watson were despatched with a body of troops.

that, while their own trade remained duty-free, heavy duties should be imposed on that of all others,—because he had the justice to abolish all transit-duties, and lay the interior trade of his country perfectly open, they accused him of a breach of the peace towards the English nation! They accordingly deposed him in 1763, and again restored Meer Jaffer. This prince died in 1765, and was succeeded by his next surviving son, Nuzeem ood Dowlah; and, by the treaty with him in February of that year, the English resolved to take the whole military defence of the country, *i. e.*, Bengal, Behar, and Orissa, entirely into their own hands. The necessities of the Mogul Emperor were next taken advantage of, and a firman was extorted from him, appointing the Company perpetual dewan* of those provinces. This firman was dated 12th August, 1765, and marks one of the most conspicuous eras in the history of the Company, constituting them masters of so great an empire in name and responsibility, as well as in power. Accompanying this firman, the imperial confirmation of the Emperor was obtained of all the territories which the Company possessed throughout the nominal extent of the Mogul empire. From this time the English are to be considered the virtual sovereigns of Bengal, Behar, and Orissa. The army was afterwards engaged in various transactions, all of which tended to increase their power; and in 1772 they “stood forth as dewan,” and took the collection of the revenue and the administration of civil justice into their own hands. Since that period the British authority has been gradually extended over the country, until it has reached its present height.

The government of the country will now form the subject of inquiry; and first, for the general government.

The Presidency of Calcutta was established only in 1707, till which period the affairs of that factory were administered at Madras. A presidency was then composed of a President or Governor, and a Council. The latter varied in number according to the pleasure of the Directors, being sometimes nine, sometimes

* Dewan is the title of an officer, who, in some measure, answered to the “*Faimei-general*,” of the old French régime. but in addition, the administration of civil justice was sometimes under the control of the Indian Dewan.

twelve. They were chosen from the civil class, and generally appointed by seniority. Everything was determined by a majority of votes. But when any man became a member of council, he was not debarred from holding subordinate functions, and thus, of course, the best appointments were distributed among this body. Many, if not most of the members of council were chiefs of the more important factories, which occasioned their continual absence from the council-board; and as their appointment to those lucrative situations was in considerable-degree subject to the will of the President, his influence was commonly sufficient to carry every point according to his own inclination.

On the 20th June, 1758, a commission arrived from England to re-model the Government, on a scheme as extraordinary, considering the circumstances in which the English were placed in India, as was ever devised. A council was nominated, consisting of ten members; and instead of one Governor, as in the preceding arrangements, *four* were appointed, not to preside collectively, but each during three months in rotation. The inconvenience of this scheme of government was easily perceived; but, convinced that Clive alone had sufficient authority to overawe the Nawab into the performance of his obligations, the council, including the four gentlemen who were appointed Governors, (Clive's name not being among them,) came to a resolution highly expressive of their own disinterestedness and public spirit, but full of disregard and contempt for the judgment and authority of their superiors. This high legislative act of the Company they took upon themselves to set aside, and with one accord, invited Clive to accept of the undivided office of President: with which invitation he hesitated not one moment to comply.

In 1765, a new form of Government was devised for the presidency of Bengal, consisting of a Governor and four Councillors, called a select committee. This new organ was only intended to exist, while the disturbances lasted which it was created to remove; but, although, on the arrival of the Governor and Committee, the disturbances had ceased to exist, they assumed the whole power of Government, civil and military, and administered to themselves and their secretaries the oath of secrecy. This

council also imposed new terms on the Nawab, requiring him to assign the whole of his revenues to the Company, receiving in return a pension.

In 1769, the disappointment of the annual treasures which they had been so confidently promised, induced the Court of Directors to devise a new plan for the government of Bengal. This was to send out a Board of Commissioners or Supervisors, who were to be superior to the President and Council, and to be authorized to exercise almost all the powers which the Company themselves, if present in India, would possess. The Ministers of the crown wished to secure to themselves a share in the patronage, and proposed to send out a King's Commissioner, with powers independent of the Company; but this plan met with such vehement opposition from the latter, that it was abandoned. The ship in which the first supervisors embarked, was never heard of afterwards; so that this new system was never carried into effect.

In 1773, a new plan was instituted—this was to appoint a Governor-General and Council. The new councillors arrived in India on the 19th of October 1774, and took possession of their authority on the following day. This establishment consisted of a Governor-General and four members of council. Subsequently the latter were reduced to three; and in 1784, the Governor-General and Council of Bengal, were vested with a controlling power over the other presidencies; and the Governor-General was authorized to act on his own responsibility in opposition to the opinions of his council. This state of things has remained to the present day; but has now been superseded by the arrangements lately enacted, which are familiar to all my readers as contained in the new charter.

In regard to the control of Europeans in India, from an early period the servants of the Company were intrusted with the powers of martial-law, for the government of the troops which they maintained, in defence of their forts and factories; and, with reference to such of their countrymen as were not in the service, the Company were armed with powers to seize them, put them in confinement, and send them to England. In 1661, by a charter of

Charles II., the presidents and councils, in their factories, were empowered to exercise civil and criminal jurisdiction according to the laws of England, under which they had exercised them accordingly. In 1726, a charter was granted, by which the Company were permitted to establish a court at each Presidency, consisting of a mayor and nine aldermen, empowered to decide all civil cases of whatever description. From this jurisdiction, the president and council were erected into a court of appeal. This court also held quarter sessions, for the exercise of penal judicature in all cases, except high treason; and a court of requests, or court of conscience, was instituted for the decision, by summary procedure, of all pecuniary questions of small amount. Besides the above-mentioned tribunals, established by the company, for the administration of the British laws to the British people in India, they erected in the capacity of zemindar* of the district around Calcutta, the usual zemindarree courts, for the administration of the Indian laws to the Indian people. These were the phoujdaree court for the trial of crimes; and the cutcherry for civil causes, besides the collector's court, for matters of revenue. The judges, in these tribunals, were servants of the company, appointed by the governor and council, and holding their offices during pleasure. The rule of judgment was the supposed usage of the country, and the discretion of the court; and the mode of procedure was summary. Punishment extended to fine, imprisonment, labour on the roads in chains, for a limited time, or for life, and flagellation, either to a limited degree, or death. The ideas of honour prevalent among the natives, induced the Mogul government, to forbid the European mode of capital punishment by hanging, in the case of a Moosulman. In compensation, however, it had no objection to his being whipped to death: and the flagellants in India are said to be so dexterous as to kill a man with a few strokes of the korah (a heavy whip).

In 1753 a new charter of justice was granted, which established matters on much the same footing as that of 1726, for the trial of suits between Europeans, and the cognizance of crimes, by the latter; but as this extent of jurisdiction was framed according to

* Landholder; in the sense used here, "lord of the manor" would, perhaps, be the best term.

the sphere of the Company's possessions, at the time when it was assigned, it deprived them of all powers of judicial coercion, with regard to Europeans, over the wide extent of territory of which they afterwards acted as sovereigns.

In 1773 the Supreme Court of Judicature was established; a court, whose arbitrary proceedings and inordinate grasping at power and patronage, threatened, at one time, to subvert the whole civil government of the country⁺. Its operations have,

* In Nos. XXIV. and XXVIII. are to be found some remarks on the introduction of English laws and customs into India. Since the publication of those papers I have heard much discussion on the subject, which has been confined to declamation, without at all touching the merits of the case. A court of English law, constituted like the present Supreme Court, is no protection whatever in those cases in which the people really require it. Ever since 1782 the Governor-General and council, and all matters connected with revenue, were expressly exempted from the operation of the court. A numerous list of evils, suffered by the people of India, has already been pointed out, which this court has no power to remedy; and I again repeat the challenge to any one, to show one single benefit that has been derived from the existence of the Supreme Court, which would not equally have been obtained from a local court. On the other hand, the evils caused by the practice of the Supreme Court, have been immense. Take the following in illustration:—An English merchant, resident in the provinces, borrows large sums of money from a native, on a mortgage of his factory; he subsequently becomes bankrupt, and the native brings the case into the local court, in order to obtain possession of the factory, in satisfaction of his claim. The business is *progressing*, but at this stage the agent in Calcutta, to whom the merchant also was largely indebted, calls on the latter to secure his claim. The merchant, accordingly, executes a judgment-bond, according to the form of English law, to the agent, at a date perhaps several years later than the deed of mortgage, which he had given to the native. The agent immediately

commences a proceeding in Calcutta, and a sheriff's officer is sent up to seize all the property of the merchant, including the factory previously mortgaged to the native. This mortgagee, and the whole of the proceedings of the local court, are entirely disregarded, unless the mortgagee proceed to Calcutta, perhaps a thousand miles' distance, and, at an enormous expense, prove his right in the Supreme Court; (but, all things considered, the loss of money and time, would generally be greater than the gain,) and the factory is either transferred to the Calcutta agent, or sold for his sole benefit by the sheriff. Is this justice? Cases might even be quoted where such a proceeding was enforced, when possession of the property had been previously transferred to the native creditor. The dread of such injustice has caused the natives in the provinces, of late years, very much to decline having any transactions with an English merchant. See some statements on this subject, lately published in England, by Mr. Newnham, formerly commissioner of Furrukhabad. The habeas corpus issued to Mr. Forbes, the magistrate of Budwan, not long ago, will be quoted by some, as an instance of protection derived from the Supreme Court. It seems an individual, Mr. Sherman, was accused of knowingly harbouring persons accused of murder, and refusing to give them up, for which he was detained in custody by the magistrate. An application was made to the Supreme Court for a habeas corpus, and Mr. Sherman was ultimately liberated on bail; the case not being sufficient to warrant his being detained in custody. Such a result might have been procured by an application to the commissioner of the di-

however, now become recorded as matter of history. It is sufficient to observe here, that, happily for the people of India, its freaks of power will, by the new charter, be put under sufficient control, so as to prevent the mischief which has hitherto resulted from its proceedings, while ample latitude is still allowed, for effecting any good which could be effected from a court of such a nature.

Let us now take a cursory view of the arrangements for the internal government of the country. The primary object with the East India Company was, from the first, the acquisition of a large revenue. Until 1765 they had no other means but that of trade; but in that year they received the grant of the dewance, *i. e.*, the power to collect the revenues of the country, and, to a certain extent, to administer civil justice. They did not, however, interfere with the established arrangements for this purpose, until August, 1769, when civil servants were stationed in various districts throughout the country, under the title of supervisors, to superintend the native officers. In the next year two councils, with authority over the superiors, were appointed; one at Moorshedabad, the other at Patna. The administration of justice being a heavy and unproductive toil, and of which, under the Mogul governors, the criminal part belonged to the nazim, or military governor, the civil, to the dewan or fiscal governor, was left in the hands of the Nawab; consequently, as reported by the supervisors, its regular course was everywhere impeded, but every man exercised it, who had the power of compelling others to submit to his decisions.

In May, 1772, when it was resolved to let the lands in farm,

vision, at an expense of a petition upon stamp paper, value two rupees, without the trouble of making affidavits. Will any one behind the scenes favour the public with a statement of the costs of this application to the Supreme Court? In this case the distance of the two courts, from the scene of action, Burdwan, was about the same. Had it been a thousand miles from Calcutta the expense and distance to be travelled, in an application to the com-

missioner's office, would have still been the same as at present: what would this, and the consequent delay have been, in an application to the Supreme Court.

N B. The question, whether the endowments of the temple, at Singram-poor, are to be sold in satisfaction of a private debt of the priests, is still undecided. It is nearly two years since the seizure took place.

a committee of the board, consisting of the president and four members, was appointed to proceed on circuit and receive proposals, while the title of supervisor was changed to that of collector. The principal officer for the superintendence of the revenue, which had been conducted by an officer, called naib (deputy) dewan, was removed from Moorshedabad to Calcutta, and placed under the immediate superintendence of the Government. The whole council were constituted a board of revenue, to sit two days in the week, or, if necessary, more: the members of council were appointed to act as auditors of accounts, each a week in rotation.

Formerly the administration of justice was as follows: The zemindar* was the great fiscal officer of the district, and exercised both civil and criminal jurisdiction, within the territory over which he was appointed to preside. In his criminal court, he inflicted all sorts of penalties, chiefly fines for his own benefit; even capital punishment, under no further restraint, than reporting the case to Moorshedabad, (the capital,) before execution. In his civil court he decided all questions relating to property, being entitled to a *chout*, or twenty-five per cent. upon the subject of litigation. Besides the tribunals of the districts, the capital was provided with two criminal courts, in one of which, called *roy adaulut*, the nazim, as supreme magistrate, tried capital offences; in another, a magistrate, called the phoujdar, tried offences of a less penal description, and reported his proceedings to the nazim. At the capital was also found the principal dewanee or fiscal court, in which the dewan tried causes relating to the revenue, including all questions of title to land. All other civil causes were tried at the capital, in the court of the daroga adaulut ool alea†, except those of inheritance and succession, which were decided by the cauzee and mufti; an officer, with the title of mohtesib, superintended the weights and measures, and other matters of police.

As the establishment of the police-magistrates, called foudars

* Literally landholder, but in this sense, "lord of the manor."
 † Chief of the highest court. Cau- zee and Mooftee are officers under a Muhammedan government, partaking both of the lawyer and priest.

and thanadars, introduced in 1774, followed the example of so many of the contrivances adopted in the government of India, that is, did not answer the end for which it was designed; the judges of dewanee adalut, (or civil courts,) were vested with the power of apprehending depredators and delinquents, within the bounds of their jurisdiction, but not of trying or punishing them; a power which was still reserved to the nizamat adawluts, (or regular criminal courts,) acting in the name of the nawab. The Governor-General and council also reserved a power of authorizing, in cases in which they might deem it expedient, the zemindars to exercise such part of the police jurisdiction as they had formerly exercised under the Mogul administration, and, in order to afford the Government some oversight and control over the penal jurisdiction of the country, a new office was established at the Presidency, under the immediate superintendence of the Governor-General. To this office, reports of proceedings, with lists of commitments and convictions, were to be transmitted every month, and an officer, under the Governor-General, with the title of "Remembrancer of the Criminal Courts," was appointed for the transaction of its affairs. In November, 1782, in consequence of commands from the Court of Directors, the jurisdiction of the Sudder Dewanee Adalut* was resumed by the Governor-General and council.

Still the inefficiency of the system, established for the collection of the revenue, (that being the mild term used, to signify the inadequacy of the sums produced, to meet the expectations of the Court of Directors and the British Ministry,) and for the administration of justice, was so apparent, that, in 1786, fresh instructions were issued on both heads. These were partially carried into effect in the following year, and the collectors were vested with the triple power of revenue-agents, of judges, and of police-magistrates.

But, after all these changes, the anarchy, confusion, and total want of justice, was so obvious, that a complete reformation was found absolutely necessary; and this brings us to the financial and judicial reforms of Lord Cornwallis, in 1793. On the principles

* Chief civil court.

now laid down, the collectors were restricted to the collection of the revenue, (there was no assessment required, the settlement having been declared permanent as to its amount,) and other avocations connected with it. In each district was appointed a judge, to decide civil cases, with a registrar, and one, or more assistants, from among the junior servants of the company. Each court was provided with a native, to expound the Hindu or Muhammedan law, in cases which turned upon any of these several codes, and all descriptions of persons, within the local administration of the tribunal, except British subjects, amenable to the Supreme Court, were rendered subject to its jurisdiction.

To obviate the danger of arrears in decision, from the arrival of too many causes to decide, the judge was authorized to refer to his register, under an appeal to himself, all suits in which the litigated property was not of considerable amount. The jurisdiction of the registrar was extended at first to 200 rupees, and afterwards to sums of a higher amount. For determining suits regarding personal property, from the value of fifty rupees downwards, native commissioners were appointed; and of these tribunals several were established in every district, but by no means a sufficient number.

For the revision of the decisions of the district judges four tribunals of appeal were established, called provincial courts: one in the vicinity of Calcutta, one at Patna, one at Dacca, and one at Moorshedabad. They were constituted in the following manner: Three judges, chosen from the civil department, and distinguished by the appellations of first, second, and third, a registrar, with one or more assistants from the junior branch of the European service, and three expounders of the native law, a kazeer, a mufti, and a pundit¹, formed the establishment of each court. The privilege of appeal was still confined to sums of a given, though reduced, amount; and, by subsequent regulations, a more humane and rational policy was adopted, an appeal being allowed from every primary decision of the district courts. Even the appellate jurisdiction of the district courts might be reviewed by this superior court of appeal, commonly known by the name of the

* A Hindu priest and lawyer.

provincial court, in those cases in which it had occasion to interpose. It was also, in the exercise of its appellate jurisdiction, empowered to take fresh evidence, or to send back the cause to the original court for that purpose.

A third and higher stage of jurisdiction was erected. A tribunal, entitled the *Sudder Dewanee Adalut*, (chief civil court,) was set up, at Calcutta, to receive appeals from the provincial courts. This was at first composed of the Governor-General, and the members of the superior council, assisted by the *kazee ool hazat*, or *head kazee*, two muftis, two pundits, a registrar, and assistants; but, subsequently, after some modifications, in 1805, a chief judge, and other puisne judges, were appointed specially for this court; it being found, that the time of the Governor-General and council was too much occupied with other avocations to allow them to devote sufficient time to its duties. This regulation has again been subsequently modified.

To superintend the collectors there was appointed a Board of Revenue, at Calcutta; and, afterwards, in 1807, another was established, for the western provinces, and, in 1817, one was created for the central provinces.

Such was the system established by Lord Cornwallis, for the administration of the internal affairs of the Bengal Presidency; it was based on sound principles, and was worthy of an enlightened statesman. It may be called the first general plan which was ever introduced for the government of the country; for the previous patch-work expedients, by which the old native and the new English functionaries shared a divided, ill-defined, and anomalous authority, do not deserve the name. Its main features were to separate the collection of the revenue from the administration of justice, and to place those employed in the former duty, subordinate to the judges and magistrates, a point extremely desirable, when we consider, how great a temptation there is to the collectors to abuse their authority, inasmuch as their own promotion and fortunes depended very much on the amount they contributed to the Government treasury. It was part of the plan to secure the integrity of servants of Government, and to offer

every inducement to men of ability to enter the service, by fixing the salaries on a most liberal scale of emolument.

The plan, however, has totally failed in attaining the objects which were expected. This has been pronounced by the highest authority, and it is worth while to investigate the reasons of it. In the first place it contained some radical defects. One was, that, with the exception of the office of moonsiffs, (which, as it was at first regulated, may be denominated a sort of parish-commissioner for the trial of causes of debt of small amount,) no office of any avowed respectability was open to the natives. To the situations about the courts, they were declared eligible, from the mere impossibility of finding Englishmen who could perform the duties; for there was not one who possessed a sufficient knowledge of Persian, which was ordained to be the language of the courts. But even here we had a sample of the illiberal policy which has occasioned such evil effects in the British-Indian government. Native Christians were rigidly excluded; it being declared that every situation open to the natives was to be filled by either a Hindu or a Moosulman. Another evil was fixing the rate of pay for the natives on a scale barely sufficient to support existence. It is strange that the expediency of applying the same policy on this head towards the natives, which was adopted with regard to the English, did not suggest itself; or was it that, at that period, the former were supposed to possess a greater share of integrity than the latter? But the main deficiency was the small number of officers appointed to administer justice, and to conduct the affairs of the government. Even in the revenue branch, and in that part of the country in which the settlement was declared permanent, it was impossible that the collectors could attend to the whole of their duties efficiently; and as to civil and criminal justice, it is only surprising that any one could have imagined it possible that a single individual could have united in his own person the functions of civil judge and magistrate, and fulfilled the duties of those arduous situations in a tract of country seventy miles long by rather more than sixty broad, and containing a population of above a million; particularly (and this should be borne in mind) as the customs of the people are such, that, without having

recourse to the supposition of the existence of a greater spirit of litigation in a given population, a much greater quantity of business in the courts of law would arise than in England.

The inefficiency of the establishment for the administration of the revenue became still more apparent, when the system was extended to places where periodical assessments of the land revenue were necessary.

After all these experiments and plans for legislation, the best of which has been, as above remarked, acknowledged a complete failure, it is curious to observe how we have at length reverted to the native district-system described already in this paper. It is also worthy of remark how long it was before the defects of Lord Cornwallis's plan were discovered. These did not lie in its outline, which was drawn on correct principles, it was the detail that was in fault. All that was necessary was, to have made the magistrate altogether a separate officer from the judge, to have diminished the size of the districts, and to have admitted the natives to a share in the government of their own country.

To this, however, there were several objections. First, The diminution of the patronage of the Court of Directors. Secondly, The necessity to own that we had committed an error. And, thirdly, A dislike to see natives in any situation that could be conceived to place them on an equality with Englishmen*. The expedients which have been devised to obviate the evils of the plan, and the gradual departure from the principles on which it was founded, are well worthy to be examined, and to these I must now invite attention.

One of the most obvious features of justice which it contained was the separation of the duties of the collector from those of the judge, and preventing the revenue-officers from having anything to do with the administration of justice. The propriety of this, in a country like India, was plain. Here, the chief revenue is raised by a direct tax on the land. The collectors are made to

* The pride and prejudice of *albo-* | must, however, yield, as the English
cracy, as the Duke of Wellington calls | become more enlightened, and know
 it, has happily diminished of late years; | *themselves* as well as the natives, better
 but it is still excessively strong. It | than they do now.

feel that their characters, as efficient Government servants, and their future promotion, will mainly depend on the amount of the sums they can extort from the people; and one of the professed objects of the courts of justice was to protect the latter from any undue exertion of power on the part of those who were employed in the collection of the revenue. It was clear, therefore, that the two lines should be kept perfectly distinct, and that "an appeal from the acts of a collector should not be made to the collector himself." But it was soon perceived that the courts of justice were totally incompetent to perform their duties; the arrears were so great as to amount to a denial of justice, and the people were content to submit to fraud and injustice, rather than waste time and money in a vain attempt to procure redress. The natural remedy would have been, to have increased the number of the courts and judges; but this would not have suited the British-India system. The plan adopted was of two descriptions; first, to establish checks, devise new forms, and call for reports; and secondly, to take matters out of the cognizance of the judge, and increase the powers of the collectors; but it is well worthy of observation that this latter was only done in those points which tended to the immediate advancement of the chief object of Government, viz, the realization of a large revenue.

One of the most striking instances is, the provision for the mode of proceeding relative to claims by individuals to the rent of lands hitherto exempt from assessment, and claims on the part of Government to tax lands hitherto held rent-free. The enactments regarding these are found partly in Regulation II. of 1819, VII. of 1822, and IX. of 1825, in which the collector was declared to be the officer who was to hear and determine their claims. Let us examine the law.

First. These suits are to be instituted before the collector, or, if preferred in a court of justice, to be referred by the latter to the collector.

Second. In the former case, the collector is empowered to decide the suits; in the latter, he is, after completing his proceedings, to return them to the court. The court may call for further evidence, but is not to admit any documents not already filed

before the collector, unless very satisfactory reasons can be shown for the omission.

Third. An appeal is allowed to the court from the decision of the collector.

Fourth. But if Government be defendant, or the land form part of an estate liable to a variable assessment, the collector is to submit his proceedings to the board of revenue: if the suit shall have been referred by the court, the return to such court to be delayed until the orders of the board of revenue upon such proceedings be received; if originally entertained by the collector, on an appeal being preferred to the civil court, the court shall not interfere until the decision of the board be passed: in all such cases, the period for the appeal to date from the decision of the board.

Fifth. The decision of the revenue authorities to be carried into effect, notwithstanding the admission of an appeal; unless the party appealing give security for the payment of mesne profits from the lands under dispute.

The second head is, claims on the part of Government to take revenue from lands hitherto held rent-free. These are to be heard and decided exclusively by the collector. He is to submit a report to the board of revenue (since 1829, to the commissioner), and on the receipt of the orders confirming the decision of the collector, which pronounces the lands liable to pay rent to Government, the lands are to be at the disposal of the latter, until they are determined to be private property by a decree of a civil court.

Here we have a specimen of the distinction made in the administration of justice when the parties are private individuals, or the Government. Under Lord Cornwallis's plans such suits as these were left for the courts to decide. See Regulations XIX. and XXXVII. of 1793, which arrangement was continued by subsequent enactments up to the Regulations XXXVI. of 1803, and VIII. of 1805*. But as the pressure of business in the courts was such as to cause intolerable delay, Government resolved to have a

* Some rules had been passed respecting rent-free lands, at various times previous to 1793.

new tribunal in cases wherein its own interests were concerned. Regulation VIII. of 1811, first gives the collectors cognizance of claims on the part of the Government to the revenue of lands hitherto held rent-free. The principle of such a law was this,—that, as Government finds great delay in taxing rent-free lands through the medium of the courts, the business shall be put into the hands of the collectors, whose interest it is to increase the revenue of Government by every means in their power, and that by constituting these officers both prosecutor and judge, much quicker progress will be made in making out pretences for taxing the rent-free lands. Still further to ensure this object, in section 5 of the Regulation just quoted, it is declared that even if the collector, after investigation, shall be of opinion that the land is not liable to public assessment, he shall, nevertheless, transmit the whole of his proceedings with his opinion to the board of revenue, who may admit or disallow the claim to hold the lands rent-free.

Regulation V. of 1813, again treats on this subject; and Regulations XI. and XXIII. of 1817 have a retrospective effect in certain districts, by which collectors are authorized to withdraw suits of the nature in question, which they, as prosecutors, have filed in the courts, and to decide them themselves*.

In all these suits decided by the collectors, if in favour of Government, the lands are immediately to be taxed, and the poor people who have been often most unjustly stripped of their possessions are referred to the civil courts for redress, for which, at least till the late arrangements, they might sigh in vain, for years; and even here we have a further limitation in favour of Government, namely, the suit to contest the decision of the collector and board of revenue shall not be heard unless preferred within six weeks from the date of the decision.

To stimulate the zeal of collectors in confiscating rent-free lands, those officers were, by Regulation XXXVI. of 1803, section 8, allowed a per-centage of one fourth of a year's rent of the lands "which may be resumed in consequence of suits pro-

* Some of the regulations alluded to have been altered or rescinded by subsequent enactments; but the provisions of which the injustice is complained of, are all retained.

secuted by them to a final judgment." This section, among others, was rescinded by Regulation VIII. of 1811, probably by inadvertence; for, in a circular order from the Secretary to Government to the Board of Revenue Commissioners, dated April 30, 1819, the per-centage to collectors was again allowed. Government were, probably, ashamed of printing such an order in a Regulation, so it was circulated in manuscript. By circular order of June 19, 1828, the reward was transferred from the collectors to the informers who hunted out defects in the titles to rent-free property. Many cases might be adduced of oppression and injustice committed under these Regulations. One shall be given in illustration.

An order of Mr. A., a collector in the miscellaneous department, regarding the management of certain rent-free lands, was appealed by one of the parties concerned, and reversed: this so annoyed Mr. A. that, to vent his spite on the person by whose appeal the reversion of his order had been caused, (although there was not the slightest shadow of grounds for any claim on the part of Government,) he instituted a suit before himself for the resumption of the lands. He had nearly finished the proceedings, when he was promoted to the commissionership of the division. The new collector perceiving, from the nature of the case, what the orders of the commissioner would be, thought it best not to offend him, so decided in favour of the resumption, and transmitted his proceedings to Mr. A., by whom they were, of course, confirmed: and a whole family were turned out almost to beggary! This, it will be supposed, *must* be exaggeration. So far from it, *every part* of the above statement was proved, even from the collector's own proceedings, before the court in which a suit was brought by the injured family, who, after a lapse of several years, succeeded in gaining a decree in their favour. Some further observations are required on the first head. It appears, at first sight, as if the law were intended to benefit the claimants of the revenue of the lands, till then held rent-free, by enabling them to obtain a more speedy decision of their suits.

A little examination will show that the real prospect was the increase of Government revenue. It was supposed that many

parcels of land were held rent-free, well known to the landholders within or near whose estates they were situated, but which had escaped the vigilance of the revenue-officers; and the object was to induce these zemindars to come forward and point out any such rent-free lands, and go through the trouble and expense of a prosecution. Whichever way the suit terminated, Government derived the chief benefit. For instance, supposing a landholder held an estate paying a certain sum to Government, in the limits of which some two hundred acres were held rent-free by another person,—if the zemindar comes forward and proves that the occupier's tenure was invalid, and that the two hundred acres formed part of his estate, and that he was entitled to the revenue, as soon as ever he was put in possession, the collector would raise the Government rent on his estate.

In other instances, where the prosecutor failed to prove his claim, it was a fine opportunity for the collector to bring forward one on the part of Government, and, as prosecutor, to file a suit before himself, as judge, to that effect. As to the unfortunate occupant of the land, his chance of retaining possession was small indeed *.

We have yet another step to take in prosecution of this subject. It might be supposed that the array for the attack of the proprietors of rent-free lands was already sufficiently strong. Regulation III. of 1828, brings a fresh accession of force. By this law, collectors are still prosecutors and judges, moreover, whenever they decide in favour of the right of Government to tax the lands, they are at once to impose the tax, leaving the aggrieved party to appeal; but if they should decide against Government, they are immediately to send their proceedings to the Board of Revenue, in order to give it another chance. It seems also that the judges of the courts were found to have some conscience and independence of feeling, and would not sacrifice all justice to gain credit with Government; so that, although after great delay, some were fortunate enough to get back their estates.

* Another difference worth notice is, that individuals are obliged to file their petitions and proceedings on stamped paper; from which the officers of Government are exempt.

This did not at all suit the views of Government, accordingly, by the above Regulation, they prohibited the courts from having any jurisdiction in these matters, and appointed a special commission to try appeals from the decision of the collectors; the award of the commissioners being final, except in cases, from their amount, appealable to the King in Council; those being, by Act of Parliament, beyond the power of Government. It was anticipated that a special commission, which was more under the eye of Government, would better attend to its interests than the judges of the courts.

But the climax of this unjust confiscation of rent-free lands is not yet reached. This is to be found in the last-mentioned Regulation, section 11, clause ii. I quote the words of the enactment, for, otherwise, I should hardly escape the charge of misstatement:—"Persons succeeding to the possession of any lands held free of assessment, or held on a *mocurruee** *jumma*, on the decease of a former occupant, or by gift, purchase, or other assignment, or transfer of proprietary right, are hereby required immediately to notify the same to the collector, or other officer exercising the powers of collector, within the district in which the land may be situated: *and any omission to notify such succession or transfer for a period of six months or more, shall subject such land to immediate attachment by the revenue officers. Nor shall land so attached be restored to the party who may claim to hold it, though the validity of the tenure be subsequently established to the satisfaction of the revenue authorities, until such party shall have paid to Government a fine, equal to one year's rent; and, if the revenue derivable from the land be not awarded to be the right of the individual, the party shall be further required to refund the amount of the collections made by him, with interest thereon, at the rate of twelve per cent., per annum; provided also, that the said rent and collections shall be estimated according to the assessment demandable from the ryots at the time of attachment.*"—These are the proceedings of a Government whose pleasure it has been

* *Mocurruee*; land held at a fixed low rent, either in perpetuity, or for a long period, or upon a life.

to boast of the blessings they have conferred on the people of India, and of their own enlightened superiority over the native barbarians whom they have supplanted*. Do not these enactments bear out the severest censures that have ever yet been made on the extortion of the British-Indian government? The last-quoted is one of the most extraordinary expedients that was ever devised for confiscating rent-free lands, particularly when we reflect how little means the people have of becoming acquainted with our regulations†. Land to be confiscated because, when a man has succeeded to his father's estate, or bought that of a neighbour, he omitted to register the circumstance in the records of the Government revenue office!—What has Government to do with the succession or private sale of lands which have already been pronounced to be hereditary rent-free possessions of individuals? What difference could the change of proprietorship make to Government? If the record of the change were necessary to assist the arrangements of the police, a slight fine for the omission would surely have been a sufficient punishment. If so severe a one as confiscation were really necessary in regard to rent-free lands, it must have been equally so in the case of those which were taxable: yet the latter were not subject to any such law‡. Why? Because Government could not gain any-

* Mr. Trevelyan's Report on the Indian Customs has just been published: and what a picture does it present! In the Regulations on this head, the British government really intended to realize a moderate revenue, and with as little inconvenience to the people as possible. Yet so little was the amount of knowledge of the subject possessed by our rulers, that it has been proved that the British system was a far greater hardship on the people, and infinitely more demoralizing, than any ever enforced by any native power, and that it has caused incalculable injury to trade and manufactures. The country has, indeed, been withering under it.

† By circular orders of the Sudder Court, dated January 21, 1824, a regulation is declared to be promulgated in each district, from the date of the receipt of the English copy. This is

put into the English part of the office. The Persian translation is often not received till months after. I could mention an office in which the Persian copies of several regulations of the last two years have not yet been received: so little care is taken to make the people acquainted with laws, by which their interests are so deeply affected.

‡ It is by no means an uncommon occurrence, from carelessness on the part of the clerks, for the name of a deceased person to remain on the collector's books, as farmer of an estate to which his heir has succeeded, for several years after the death of the former. On its once being brought to the notice of a collector, he merely observed, that as the revenue had been regularly paid, it signified little, but that he would order the mistake to be rectified.

thing by it. These lands were already taxed to the utmost, leaving only a bare subsistence to their owners; and the mere change of the proprietor or manager afforded no field for demanding a still higher rent. It may here be noticed, that, in the first instance, a proclamation was issued to all possessors of rent-free estates to register their deeds. Great complaints are, however, made, that the authentic documents were kept back, and forged ones brought to be registered. The reason was, that the people believed our object to be, to get possession of the real documents under pretence of registration, and then, to call upon the proprietors to show the grounds on which they held their lands. So much for native estimation of British faith and justice.

Of the special-commission laws for reversing sales by a collector for revenue balances, or by a court of justice in satisfaction of decrees, Regulation I. of 1831, and Regulation I. of 1823, I have already treated in No. XVIII. of these papers. I must again allude to them in prosecution of the present discussion, chiefly with a view to adduce further proof of the incompetence of the courts of law to give redress to the people. Let my readers look over carefully the preamble to Regulation I. of 1821, and they will see this distinctly avowed. The following paragraphs are quoted:—"Moreover, in all suits brought to annul sales, made for the recovery of arrears of revenue, the collector, on the part of Government, must, under the existing code, be made one of the defendants in the case along with the purchaser. Various other forms must be observed, which are likely to defeat the just claims of the ousted proprietors. The prosecution, too, in ordinary course of regular suits in the Adalat*, necessarily involves considerable delay and expense,—requiring a long attendance at the court, the payment of various fees, the employment of vakeels† and other expenses, which would alone operate greatly to prevent the complainants in question from seeking redress in that manner, even if the cases were such as to admit of easy decision by the regular tribunals."—"The established

* Civil court.

† Lawyers.

courts, consequently, are not so constituted as to provide adequate remedy for the evils above specified.”—“Even, too, if these courts were so constituted as adequately to provide for the trial and decision of the cases in question, yet the duty could not be completed by them for a long period of time without an entire interruption of their ordinary functions.”

The next case in point is, the extensive judicial authority bestowed upon the collectors by Regulation VII. of 1822. The real object of which Regulation, let me again observe, is to reduce the whole country beyond the pale of the perpetual settlement to a ryotwar tenure (see again No. XVIII. of these papers, in which it is explained), and thereby annihilate the small remnant of landed proprietary right which still exists; also to search out every foot of land which may be in excess of the recorded extent of the different estates; and to count the fruit-trees and cattle of the villagers, in the hope of discovering some additional fund for taxation. Heaven help the miserable cultivators! There is little chance of their being looked upon with an eye of pity by the British-Indian government. There was, undoubtedly, great uncertainty in the proprietary right of the respective portions of land, and an urgent necessity for some inquiry, and for ascertaining the real owners; but this has by no means been accomplished by the famous ryotwar law; on the contrary, it has, in most cases, increased the confusion and intricacy of the subject tenfold. Those who are interested in the matter, should carefully read over the Regulation in question, and they will then be better able to understand how little its provisions can be carried into effect by the following detail of practice.

The collector sends word to the *tuhseeldar** that he intends visiting a certain subdivison (*pergunnah*) of his district for this purpose, and desires the latter to begin the preliminary measurements and record of proprietary rights. In a few days afterwards he pitches his tents near the spot, but, as far as this particular business is concerned, he might as well be a hundred miles off. His current duties occupy all his attention, to say nothing of the

* Native revenue-officer of a subdivision of a district.

little knowledge he possesses of the business of measuring lands. The tuhseeldar is fully as much employed in his ordinary duties as the collector, and can do nothing personally in the matter ; nevertheless, on the receipt of the order, he proceeds to some spot in the centre of half-a-dozen villages on which the visitation is to be inflicted. He then collects as many of his writers and measurers as he can spare from their regular duties, and occasionally hires extra men ; most of these are of the lowest description, in the receipt of pay at the rate of from five to ten rupees a month each ;—one of each class is distributed in each village, with directions to make the necessary measurements, inquiries, record of rights, and amount of rent payable, calculated chiefly from the accounts of the putwarrees and kanongoes *, which have been repeatedly declared unworthy of credit. When completed, each writer brings his work to the tuhseeldar, who causes it to be copied, sets his seal to it, and brings it to the collector, in whose office it is again transcribed, signed by that officer, and by him forwarded to the commissioner. The latter transmits it to the Board of Revenue, who, if the increase in the Government revenue be considerable, approve of it ; if not, the board generally pronounce the settlement papers to be “unsatisfactory :”—and this is the mode in which the rights and interests of some millions of landed proprietors, and cultivators, are, under the British-Indian system, placed at the mercy of men, many of them hired for the occasion, upon salaries equivalent to what are paid to the inferior descriptions of menial servants† ! The bribery, extortion, and oppression which have been practised under this law, would probably exceed anything in the annals of our misrule ; yet, these are the settlements which in some part of the investigations are pronounced final, and not to be disturbed by a judicial inquiry ! Had the collectors been confined to the measurement of the lands,

* Village officers to record leases, changes in the occupation of the land, and other matters connected with these.

† That very little real information is acquired by collectors respecting the lands which they assess, is pretty evident from the fact, that hardly a

settlement was ever yet made in which the collector did not notice the great inequality which existed in the rent of the different estates in the previous settlement, and boast of his own success in rectifying the injustice. Yet every successor makes the same assertion.

making, in conjunction with a surveyor, a skeleton map of each village, and ascertaining the actual occupancy of each plot of land* (as suggested in No XVIII), this would have been something gained, but as things have been conducted hitherto, everything is in greater confusion than it was before.

The decision of summary suits relative to arrears and exactions of rent, and some other points, have been also taken out of the jurisdiction of the civil courts, and vested in the collectors. Where the settlement has been declared permanent, these cases may, perhaps, be very properly left in the hands of the latter; because, as they will then at any rate, after some time, be sure of the Government demand, there will be little temptation to lean too much to the side of the landholders, and allow them unjustly to oppress their cultivators, but even then I am not sure that it would not be more expedient to vest the cognizance of them in the local moonsiffs.

But what is the conclusion to which all those statements tend, and what is the result which suggests itself? Is it not the total insufficiency of the provision for the administration of justice? It is evident that this has been perceived by Government plainly enough, by the pains taken to establish new jurisdictions for those cases in which its own interests were immediately concerned. Had there been any sincere desire to benefit the people, instead of all these special commissions and other contrivances, they would simply have improved upon Lord Cornwallis's plan; have separated the police from the civil judges' duties, appointing separate officers to the charge of the former; and have increased the number of the judges, so that all might have had an equal chance. But these are the effects of the all-absorbing idea of a large revenue, and of Calcutta-educated legislators. A *first-rate collector* has been justly described to be the curse of his district;—a *first-rate revenue secretary* is the curse of the whole country, more especially when his notions are all derived from theory, and their evil tendency has been unchecked by any practical acquaintance with the working of our systems. Each revolving day echoes

* Lately surveyors, coupled with assistants to collectors, have been appointed in some districts, on a plan very similar to this.

the execrations of thousands, ay, of *millions*, on the authors of these laws, for the misery which they have inflicted on misgoverned and plundered India*. So long as they remain in force, no government, whatever may be its professions, can really deserve credit for benevolent or just intentions; and that Governor will be really entitled to claim the character of enlightened, who will abolish the resumption laws, those establishing the two special commissions, and those which vest the collectors with judicial powers, and wipe out these foul blots from the British-Indian legislation†.

Here, excepting as regards Regulation I. of 1821, even the negative praise of good intentions cannot be awarded to the Government. The other laws discussed in this paper were founded on the most barefaced injustice; and, what is more, the details of the enactments display a great share of ignorance regarding the affairs of the country.

Why does not Lord William Bentinck maintain the character he has hitherto received from the public, and prove himself worthy of it, by rescinding these odious laws? Hitherto, he has but too closely followed the steps of those who have preceded him. Revenue, revenue, revenue, has been the main object in all his measures and the end of all his exertions. For one, and one only, *really* pure and enlightened proceeding, can the just applause of the country be rendered to him,—the toleration of the most entire freedom of the press‡, of which this and many

* Hear a native historian, the author of the *Seer Mutakerrim*, speaking of the English nation.—

“If to so many military qualifications they knew how to join the arts of government; if they showed a concern for the circumstances of the husbandman and the gentleman, and exerted as much ingenuity and solicitude in relieving and easing the people of God, as they do in whatever concerns their military affairs, no nation in the world would be preferable to them, or prove worthier of command. But such is the little regard which they show to the people of these kingdoms, and such their

apathy and indifference for their welfare, that the people under their dominion groan everywhere, and are reduced to poverty and distress. Oh God! come to the assistance of thine afflicted servants, and deliver them from the oppressions they suffer.”

† If this be not done speedily it will be useless. To abolish these laws after Government have succeeded in confiscating the whole of the rent-free lands, will be a very cheap mode of gaining credit for a wish to benefit the people.

‡ It has, however, since appeared, that this praise of Lord William Bentinck was more than he deserved.

other publications are sufficient proofs, and for this, indeed, I thank him, not in my own name, but in that of the people of India. Unfavourable as his lordship's opinion of human nature is said to be, since he claims the merit of a desire to benefit the nation over which it has pleased Providence to place him, he may surely believe that others may be actuated by the same motives. What object can the author of these papers, and numerous other writers, who have lately advocated the cause of the people of India, have in spending their leisure hours in additional labour, after having toiled the whole day in official or private business? What is it to us, as individuals, whether *they* be trodden to the dust, or raised in the scale of existence? We have nothing in common with them;—those in office receive their salaries;—the concerns of others proceed in their due course;—and if it please God to spare our lives, we shall each in due time have earned a competence by the sweat of our brows, and shall return to enjoy it in our native land. But we know that the most splendid abilities, and the most indefatigable activity, possessed by the highest gifted individual, are not sufficient to enable him to search into every abuse; and, moreover, that it will be long before their existence will be known by mere official reports. This it is, added to the desire to do our duty to those among whom our lot has been cast, that induces us to come forward. We have not the vanity to suppose that our views are infallible, or that they may not stand in need of correction; but we strongly feel the necessity of rousing all who have any connexion with the Government from the infatuated belief, in which they have too supinely rested, that all is going on well, and that there is nothing in the principles or practice of our administration which requires amendment. Some of us have had opportunities, which have not been generally afforded to Englishmen, of mixing in social intercourse with the better sort of the people of India; of living in an interchange of good offices with them, and a participation of kindly feelings; and of witnessing the good and the evil which have resulted from the introduction of British laws, institutions, and ideas of government. The common feelings of human nature

induce us to exert our best, though feeble, endeavours to do them good in return; and for my own part, should I ever retire to my native land, it will be the proudest object of my ambition to be considered in the slightest degree entitled to the name of A FRIEND TO INDIA.

April 10, 1834.

No. XXXIII.

SKETCH OF THE BRITISH-INDIAN ADMINISTRATION.

THE length of this discussion has already extended itself beyond the due limits of a single paper, and enough yet remains to occupy another, while I proceed, in the next place, to consider the method devised for the administration of criminal justice.

The outline for this, as established by Lord Cornwallis, was as follows:—The native system of police, the powers of which were confided to the landholders, with their armed followers in the country, and to a set of officers called kotwals, with armed followers in the cities, was abolished. From both these sets of officers, all powers were taken away. Instead of the previous expedients, the judges of the district courts were vested, in quality of magistrates, with powers of apprehending and examining all offenders. On slight offences, importing a trivial punishment, they might pass and execute sentence; in other cases, it was their business to secure the supposed delinquent for trial in the court of circuit; and that either by committing or holding him to bail, as the gravity of the case might seem to require. Each district was divided into portions of ten coss (or twenty miles) square, and in each of these subdivisions the judge was to establish a darogah, or head police-officer, with a train of armed men, selected by himself. The darogah was empowered to apprehend on a written charge, and to take security, in the case of a bailable offence, for appearance before the magistrate. Had there been a sufficient number of these officers, who should solely have attended to police and magisterial duties, the plan was a very

tolerable one; but a moment's reflection will convince us of the absurdity of supposing it possible that a single individual could perform these duties in a population of about a million, particularly when he had, in addition, those of civil judge to attend to.

But what opinion must be formed of the plan of a court of circuit for the trial of crimes periodically? Surely, a man of plain common sense would imagine that the best mode of administering justice would be, if possible, to establish local tribunals in each district, for the trial of each case upon the spot, as soon as it arose, instead of appointing a moveable court, which was to make its tour periodically, by which all those committed for trial for unbailable offences, immediately after the conclusion of one sessions, were obliged to remain in gaol for several months; to say nothing of the hardship to the prosecutors and witnesses of being obliged to attend court a second time; besides, if any of them should chance to be travellers, they were either forced to remain in attendance until the next sessions should be held, or, if they had gone home in the interim, to undertake a long journey for the purpose of being present at the trial. It is probable that the framers of the scheme never reflected on all its concomitant disadvantages, or even inquired whether it possessed any peculiar benefits: they knew that such an one existed in England; they had also perceived that great abuses had been perpetrated by the local authorities, both English and native, in India; and they probably thought, that in establishing a system for the administration of justice here, they could not do better than copy the model which presented itself at home.

We should examine the origin of such an establishment in England, and it will be going quite far enough back to begin with the Norman conquest. At that period, the courts of justice were local, the king being held the fountain of justice. The Normans brought over their feudal judicature; each feudality had its courts leet and courts baron, with power of life and death; but the county courts were suffered to continue, while the king was paramount, and usually held, or professed to hold, a court of justice, wherever he might be. In process of time, out of the court of government justiciary which used to follow the

king, arose the stationary courts at Westminster, the courts of King's Bench, of Common Pleas, and Exchequer. But it was found that the king could not be always making the circuit of the kingdom to administer justice to the whole people; and that the feudal barons, and other *country gentlemen* of those times, were little else than robbers on the grand scale. As a check on the oppressions of these, the parliament of Northampton, in 1196, appointed justices in eyre, who were to make the tour of the kingdom *once in seven years* so that a man might be in gaol more than six years before he could be brought to trial. As some check to this, the grand jury was instituted, whose province it was, originally, to investigate whether there were sufficient grounds to apprehend an accused person. Judges of assize and annual circuits were introduced by Magna Charta, and some further provisions respecting them were enacted by 9th Henry III. c 12. At the present day, Durham, Northumberland, Cumberland, and Westmoreland, have assizes only once a year; the home circuit has three, and the others two annually.

Here is the origin of so clumsy a mode of administering justice as that of a circuit court, devised solely because the resident aristocracy were such tyrants and robbers, that the business could not be left in their hands, and because there were no others of sufficient power and influence to whom it might be intrusted. Did the same circumstances exist at the time it was introduced into India? Had the native landholders been allowed to retain their police powers, there might have been some plea for the measure; but, by Lord Cornwallis's plan, the authority of all these was annihilated, and local British magistrates were appointed in their stead. The same objection could not apply to these. If it had, the remedy would have been very small, because these very magistrates were destined, in rotation, to fill the office of circuit judge. It is, in truth, one of those blind imitations of our own institutions so common to English legislators in all countries where they have obtained power, adopted without consideration whether or not it was calculated for the people among whom it was introduced. The evils of the system have long been apparent in England, and some attempts have been

made to devise a remedy by means of the petty sessions and quarter sessions, whose powers have, of late years, been enlarged so as to allow them to take cognizance of many cases which were formerly committed to the assizes.

But if, in a country of so limited an extent as England, a remedy was necessary to obviate the evils of these institutions, what must be the hardship and inconvenience which they entailed upon the people of India? By law, sessions were to be held in those districts in which the head-quarters of the circuit judges were fixed, once a month; that is, six districts, that being the number of these tribunals. In all the others, amounting latterly to more than forty, once in six months; but these were not held with any regularity. I have known an instance of a judge arriving so quickly after the conclusion of the preceding sessions, that there were no prisoners for him to try. Nine months or a year often elapsed; and I recollect one session which did not begin until fifteen months after the close of the preceding. Of course, those committed immediately after the conclusion of a gaol-delivery, if not admitted to bail, or unable to procure it, were detained in gaol all this time, some of whose crimes would not, after all, be visited with severer punishment than two or three months' imprisonment, for, with the characteristic inconsistency of British-Indian legislation, the magistrate's power of punishment was limited to imprisonment for one month, or to the infliction of stripes with a rattan. All offences which seemed to deserve a higher punishment were to be committed to the court of circuit; so that even if no irregularities in the period of holding the sessions had taken place, a man would occasionally undergo three times as much punishment as his crime deserved, before he were brought to trial. The system was peculiarly unsuited to India, rendered so by one remarkable feature in the character of the people,—their want of exactness. The mass of the natives have little determinate idea attached to dates and distances; and even names and occurrences, except those relating to their relations and friends, and connected with their own immediate interests, remain very indistinctly impressed upon their minds.

There was another circumstance which, in these trials, tended

to defeat the ends of justice, and which, indeed, would have had considerable effect in any country. A gang-robbery was committed, in which those who were plundered saw distinctly by the light of the torches, which it is the common practice of the robbers to carry with them, the countenances and persons of several of the latter. Two or three days afterwards, several were apprehended on suspicion, and the persons who were robbed, or, perhaps others of the villagers, depose to some of these having formed part of the gang. So far well; but when these people are summoned to give evidence at the sessions, six months, a year, or more, afterwards, the probability is, that they do not recollect distinctly the features of the accused. The presiding judge, with a laudable zeal to secure the prisoners the utmost fairness, perhaps orders them to be placed in a line with several other persons, and the witnesses very often point out the wrong persons. The consequence is an acquittal, and the discharged prisoners are set at liberty, and return home to wreak their vengeance on the poor witnesses, and to ridicule the British system, which allowed them to escape though they had been distinctly recognised. It is no wonder, under such circumstances as these, that the prosecutors and witnesses should have endeavoured to escape the evils of being connected with a prosecution, and have so often displayed such great discrepancy in the evidence which they gave before the magistrate and at the sessions. Yet these seem seldom to have been adverted to, or even recollected, by the circuit judges, in writing their reports on the state of the country and character of the people. The conclusion seems very generally to have been adopted, that the witnesses had been suborned, and induced to perjure themselves; and many an eloquent tirade respecting the prevalence of falsehood and perjury among the natives of India has been based upon this idea; the little communication or acquaintance with the people which most of the judges possessed, being insufficient to enable them to perceive the error.

But, in addition to the first detention in gaol, there were other hardships entailed by this plan. The powers of the circuit judges were limited to sentences of fourteen years in irons and

labour. In all, therefore, which required a higher punishment, the cases were to be referred to the superior court. It might so happen that further evidence was required by the latter; and directions to that effect were issued to the circuit judge. But by the time he received them, he was holding the sessions in another district; and the business was protracted for another six months or year: and after the whole was completed, it might be an equal time before the final orders of the superior court were received. Some instances of this intolerable delay were given in a previous paper. Three more are now subjoined in a note*.

In practice, there was a great want of arrangement, and consideration for those who were summoned as prosecutors and witnesses. On receiving intimation of the approach of the court of circuit, notice was sent by the magistrate to those whose evidence was required. Now, it would have been a very simple expedient to have summoned only a few at a time in rotation, so that each would only have been detained a few days from their houses. Rarely, however, did this enter into the head of the magistrate; the practice was to summon the whole at once, and often have I known some of these people detained in attendance six weeks, or even two months. In an official letter, already once quoted, Mr. E. Strachey, among other reasons for not writing a detailed report, mentions that he had 400 prisoners untried, and 1700 witnesses in attendance, whom he could not keep any longer from their homes. He does not state the number of trials; but from the total number of people to be examined we may form some idea of the time required. The most indefatigable judge could hardly take the depositions, (provided it be done with

* A case referred back by the superior court to the circuit judge for further evidence, was nearly two years before the proceedings were completed. Circular orders, March 11, 1813.—An instance has recently occurred in which, from an oversight in the court of circuit office, delay of two years took place in the execution of a sentence passed by the Nizamut Adálut, and during this interval, one of the prisoners, who had been *acquitted by the court*, died. Circular orders, July 3, 1816.—A case of a female prisoner, who was con-

demned to death, and respited for a time, on account of alleged pregnancy, lay over *for six years* without being executed. Circular orders, April 2, 1824.—The quiet way in which the superior court pass over such instances would astonish the uninitiated: but it is a convincing proof of what has so frequently been brought to notice,—the overplus of business thrown on every office. The superior court knows very well that, under existing circumstances, such cases as the above must occasionally happen.

propriety, and the evidence clearly written down), of more than forty people in a day: which, for the above number, would require more than fifty days before it came to the last: but taking into consideration the intervention of Sundays, and occasional native holidays, and the writing of letters in referred cases, it would be more than two months before the whole were completed. We should also recollect that the only allowance made to these people was, with a few very rare exceptions, just sufficient to procure food for the days they were in attendance. Occasionally something was granted, to prevent their being reduced to the necessity of begging or stealing on their way home. When we consider that this is the second attendance; that many days, at perhaps several different times each, have been already spent at the magistrate's office which may be situated at 60 or 100 miles from the witnesses' homes, where, except on very urgent occasions, no allowance is made; can we wonder that among a people, of whom so large a proportion subsist by their daily labour, our courts should be viewed with horror? and that crimes should be concealed, and injustice submitted to, in order to avoid the insupportable burden and expense which was entailed by being in any way connected with the prosecution? Let me again remind my readers, in elucidation of a remark I have before made, that this is one of those cases in which the English law and customs have been taken as a guide. We have, at length, introduced a system which is, at least, founded upon common sense; but it is another proof how little the interests of the people were considered, that, notwithstanding the numerous reports which clearly demonstrated to Government the evils inflicted upon them, it was forty years before a change was effected. It is also worthy of remark, and an illustration of the prejudice, so characteristic of the English, for their own institutions, that, notwithstanding these evils were most forcibly and ably depicted by numerous public functionaries, it was many years before any one seems to have hinted, or even discovered, that the system itself which had been introduced was radically defective.

The next great change is that introduced by Regulations V. and VII. of 1831. By this, every district is to be provided with

a civil and sessions' judge, which officer is empowered to decide civil suits of any amount, and is to perform the sessions' duties which formerly devolved on the circuit judges, and, for a short time, on the commissioners of revenue and circuit. He is to hold a gaol delivery once a month, besides which, ordinarily, he is to try all cases committed by the magistrate as soon as the committal is made out. For the trial of civil suits of an amount up to 1000 and 5000 rupees respectively, officers under the designation of sudder ameen and principal sudder ameen* are appointed; and others entitled moonsiffs are stationed in local subdivisions, who are empowered to try all suits of an amount not exceeding 300 rupees. They receive respectable salaries, but it would be good policy to fix these at a higher amount. At present the remuneration is as follows:—Principal sudder ameen 400 rupees per month, and establishment allowance 100, total 500; sudder ameen 250 rupees per month, and 50 allowance, total 300; moonsiffs 100 rupees, and 10, total 110 per month. The mode of fixing the number of these officers in each district was calculated on a very rational plan. A given number of suits was assumed as that which each officer of each designation was annually to decide, viz., principal sudder ameen 250, sudder ameen 350, and moonsiff 450. The average number of suits which would be cognizable by each description was calculated for the three years preceding the introduction of the system in three separate columns, viz., up to 300 rupees; above 300 and not exceeding 1000 rupees; and above 1000 and not exceeding 5000 rupees, in detail, for each of the subdivisions, according to the police jurisdiction of each district: and the new judicial officers were appointed as the result of the inquiry showed to be expedient; some being vested with the jurisdiction of the whole district, and others being stationed in local subdivisions, according to the probable number of suits that would arise. Those of the two former grades, who were stationed at the residence of the judge, are not authorized to receive suits originally themselves; but to try those which the judge refers to them; but those who

* These are different grades of judicial officers. I do not know of any English synonymous terms which could be adopted.

were appointed to a subdivision of the district, as well as all the moonsiffs, are empowered to receive original causes. In the courts of the latter, the expenses are very small, and many forms are dispensed with; the object being, to ensure a proper decision on the merits of the case, with the least trouble, delay, and expense to the parties concerned. Each judicial officer is empowered to execute his own decrees.

Here, then, is a rational and sensible plan, founded on a wish to give substantial justice to the people. It has, too, been carried into effect at once, the moment the ruling power so willed it, without being checked and delayed by the cavils and cabals of a body of lawyers, and others who are interested in perpetuating abuses solely for their own benefit. We have seen how Lord Brougham's laudable endeavours to introduce a better system for the administration of justice in England have been thwarted by such disgracefully-interested opposition. Let this, among other instances, be borne in mind by those who are so anxious to impose English laws and customs upon India.

The new plan has its defects. Where is, or can be, the human institution which is perfect? but these exist more in the detail than in the plan itself, and may easily be remedied, provided Government will agree to devote a little more of the revenue to the benefit of the people, from whom it is collected. The principal error is that to which I am compelled so often to allude, from the baneful effect of its influence in every department of the executive administration of Government,—the inadequacy of the means afforded for the work required. Many of these new officers will find themselves in the same predicament as those in the higher appointments, with regard to the overplus of business, while no provision has been made for clearing off the accumulated arrears of from thirty to forty years. Were this done, the business in many of the districts is such, that, with diligence, the courts might be kept clear of all delays for the future; but in some this would be impossible. The work which is expected from the subordinate judicial officers is more than can be done efficiently. The quantum originally fixed by Government, has

been mentioned above; but, by a subsequent order from the Sudder Dewanee*, this was modified, and the minimum declared to be as follows: A principal sudder ameen, who had no appeals on his file, is expected to decide twenty suits per month, a sudder ameen twenty, and a moonsiff twenty-five. But as the holidays which occur are allowed to be a sufficient excuse, this would give an annual quantum, respectively, of 200 and 250. But each of these decisions is to be *executed*, which gives rise to much business, in claims brought forward to attached property. On the whole, it may be estimated, that the execution of a decision requires about two-thirds as much labour, as the investigation of the original suit, in those courts which possess a nazir (a sort of sheriff): the moonsiffs, not being allowed to entertain an officer of this description, are expected themselves to perform his duties, so that, on the average, the execution of a moonsiff's decision will occupy as much time as the primary investigation. But there will, and must, also be much to do of a miscellaneous nature, in the receipt of petitions, relative to matters before the court, which it is almost impossible to describe so as to render it intelligible to the uninitiated. On the whole, however, a moonsiff, who works hard, and enjoys uninterrupted good health, will be equal to the task which has been appointed to him. But any accidental postponement of the sitting of the court will occasion an arrear which it will be very difficult to clear off; nor will he have any leisure to devote the necessary attention which may be required for such causes as demand a particular and detailed inquiry. These must be managed in the best mode which circumstances will admit. The principal sudder ameen and sudder ameen, from being allowed to entertain nazirs, and having a less number of suits on their respective files, are not so hard pushed, and may, with adequate labour and intelligence fulfil the duties required of them†.

We must now consider the business of the judge. This officer is expected to decide twenty suits per month, if so many are

<p>* Chief civil court. † How very impolitic it is to fix the quantum of business of any office at</p>	<p>the maximum which can be performed, so as to make no allowance for accidents.</p>
---	--

filed in his court, the execution of which is equal to the investigation of fourteen or fifteen more. Supposing the subordinate judicial officers are two sudder ameens and four moonsiffs, (it is probable that the average of each district would give a greater number,) we may fairly calculate on from twenty to twenty-five appeals monthly; but the number of these will vary much according to the speed or delay which takes place in their decision. We have then the miscellaneous department, which is much heavier than in the subordinate courts, because many cases under this head, such as petitions to be allowed to sue as paupers and others, are cognizable only by the judge. And, finally, summary appeals from the decisions of the subordinate judicial functionaries, in their miscellaneous and execution-of-decree departments. In addition to all this, he must preside in the sessions for the trial of criminal cases, which of itself will occupy eight or nine days* per month; and, should the extraordinary rule be retained, which prevents the sudder ameens and moonsiffs from trying causes to which a European is a party†, if many Englishmen settle as merchants and manufacturers in the country, the judge will be so overwhelmed with business, that his office will not be at all in better order than before.

The mode of conducting the sessions has already been much improved. Still the delay, attendant on the business, is often a very considerable inconvenience and hardship to those concerned. Those whose evidence, as prosecutors and witnesses, is required, and who reside within the district, can attend a second time without much difficulty, however inconvenient and annoying they may find it; but it occasionally happens that some of these parties are resident at a distance of 200 or 300 miles, and were merely travelling through the district in which the crime was committed. Supposing some of the aggressors are at once apprehended,

* I formerly estimated the time occupied by sessions, at twelve days per month. This was correct, as drawn from two or three districts near my residence. I have been since told, that, on a general average the time would not be so long.

† According to the anomalous system of British-Indian legislation, while

such restrictions are, on the one hand, imposed on the moonsiffs, on the other, they may receive suits to set aside summary awards of collectors for land rent. Regulation VII. of 1832, sec. 10. In other words, they may hear appeals from the decisions of covenanted officers of many years' service!

and that part of the stolen property was recovered at the time, the depositions of the former are taken by the magistrate, but the accused, in their defence, endeavour to prove an alibi, or assert the property to be their own, and offer to bring witnesses to prove it, all which must be fully investigated by the magistrate, before he commits the case. These inquiries lead to others; fresh men are apprehended on suspicion, all of which still further postpones the case, (for the magistrate naturally wishes to dispose of it altogether at once, instead of piece-meal, for various reasons, one of which is, to obviate the necessity of summoning the parties twice or three times at the sessions, in addition to their appearance at the magistrate's office,) so that an intricate case is not unfrequently a month, or even two or three, under investigation by the magistrate, before it is committed for trial. The choice of evils to the prosecutor and witnesses is, that they must remain all this time in attendance, or be ready to come forward, when summoned, a second time. In England, the latter alternative is not so great an evil as in this country, though even there loud complaints are issued; for there the conveniences of travelling are so great, that a man may attend a court of justice 200 or 300 miles from his home, give his evidence, and return within the space of four or five days, besides having his expenses paid. In India, unless he travelled post, (the enormous expense of which renders it a mode of conveyance only available by the richest,) a man could not do this under a month, and the only allowance he receives is just sufficient to buy him food for the days on which he may be in actual attendance on the sessions' court, and that, too, only if he should be absolutely destitute. It is no wonder that, as I before observed, crimes and offences, of all kinds, should be concealed, or submitted to, when such heavy penalties are inflicted even on innocent and uninterested individuals, who are in any way concerned in their investigation before a British-Indian court of justice.

The establishment of local courts, for the cognizance of crimes and administration of justice, would be the only effectual remedy for these grievances; but as this may not at present be practicable, we should endeavour to ascertain, whether any improvement

of the present plan could be attempted, seeing that, as it now stands, it imposes such peculiar hardships on the people, from their almost universal poverty, and from the customs of the country. In England, with the exception of hawkers and pedlars, and those commercial agents, denominated "*travellers*," who go from place to place to receive orders and exhibit samples, it is not customary for merchants and tradesmen to move about with goods for sale, but in India it is a very common practice; and there is another difference worth noticing. In the former country almost all the goods are sent by public conveyances, coaches, wagons, boats, &c., to support which regular establishments and communications are kept up at convenient distances. Should the driver, or conductor, of one of these be detained to give evidence on a robbery, or from other cause, another is immediately put into his place, and everything proceeds without interruption. Here, on the contrary, the practice is to hire boats, carts, or any other carriage, for the trip. Should the conductors of these be detained on the road, the carriage and goods must remain stationary also, to the great expense and risk of the merchant in various ways.

We must also consider the great difference in the education of the classes from which the officers who preside in the courts of justice are selected. In England any one may be a magistrate, or justice of the peace, who has interest with some of the leading members of a corporation, or with the lord-lieutenant of a county. No inquiry is made as to qualifications; and, although public opinion has of late years acted as a considerable check to the abuse of power, or display of ignorance, still the legal knowledge of these officers in England, particularly of the unpaid country gentlemen, does not rank very high; and they would certainly not be considered, generally speaking, a fit body from whom to elect our judges. In India the case is different. Here the situations of assistant and of magistrate have been the regular steps by which a man attains the situation of judge. It is to be naturally supposed, that the powers attached to an office are regulated so as to meet the qualifications of the generality of those who are to fill it; we find that in India a magistrate was at one

time deemed fit to be allowed to decide those cases only in which the punishment was not more than one month's imprisonment : all which deserved a severer sentence were to be committed to the superior court. Yet the contrivers of this system seem to have overlooked the fact, that the same individual who, up to the last moment of his continuing in the office of a magistrate, was considered only qualified to decide cases of the most trivial nature, was all at once invested with powers to sentence a man to fourteen years' imprisonment in irons, and labour, in addition to thirty-nine stripes. In truth, it was another exemplification of one of the characteristics of our Anglo-Indian administration. Under the previous system great abuses had been perpetrated by the large, irresponsible, and undefined powers, which the local officers possessed. The other extreme was then adopted, and the most absurd restrictions imposed. The enormous load of business thus thrown upon the sessions' courts, occasioned intolerable delay and hardship to the people, from the unavoidable protracted attendance which ensued. To obviate this, the powers of the magistrate were, in 1807, increased to pronouncing a sentence of six months' imprisonment, in addition to stripes or fine, according to the nature of the crime ; and, in 1818, they were extended, in case of theft, to two years' imprisonment.

The result of all these observations seems to suggest the expediency of having a graduated scale of powers, to be vested in the magistrate, according to length of service and qualifications. This principle has been very properly adopted with regard to assistants. It is obvious that a young man just released from college should be restricted to the decision of the most petty cases ; but, after he has presided in his office for three or four years, although he still hold the same situation, he will have gained sufficient knowledge and experience to qualify him for the investigation of cases of much greater intricacy ; accordingly there are what are termed "special powers," with which an assistant of some standing is vested, under which he can punish crimes of a higher nature, and may investigate intricate cases, which the magistrate must ultimately decide ; but which could not be referred to a mere assistant, even for the purpose of inquiry. The same prin-

ciple might be adopted with very great benefit in the office of magistrate. There should be special powers for these officers, under which they might decide cases of greater importance, perhaps to the extent of pronouncing sentence of five, or even seven years' imprisonment, which powers should be granted after a certain period of service; this would greatly diminish the labour of the sessions' judges, and leave them more time for the civil business; and to the people it would be productive of great benefit.

I am inclined to think that the business of the sessions might be still further lessened without any evil effects. Instead of summoning the whole of the parties, why should not the proceedings only be sent to the sessions' officer? If he went carefully through them, he would be likely to form as good a judgment of the case as if he heard the trial, as at present, in his own court*. This plan is adopted by the superior criminal court (Nizamut), who pronounce judgment of life and death only on the inspection of recorded proceedings; and surely if this plan be admissible in the highest causes, it might be pursued in those of minor importance; and I think it is worthy of a trial in all those cases in which a sessions' judge is authorized at once to pronounce sentence. Those which are referred to the Nizamut may be heard by the sessions' judge as at present. In order to prevent the latter from being satisfied with merely reading over the magistrate's final statement of the case, this should be the shortest summary possible, containing merely a statement of the crime committed, the names of the parties on whose depositions suspicion was attached to the prisoners, or whatever other grounds there were for it, and those whose evidence were considered to

* The proceedings of a magistrate in India are very different from what is too common in England. There a justice of the peace, after asking a few hasty questions of the prosecutor and his witnesses, commits the prisoner; too often telling him, that whatever defence he has, he may reserve to the sessions. It is but a few years since it was decided in England that a magistrate had the power to hear

anything an accused person might have to urge. In India, on the contrary, every part and bearing of the case is fully investigated by the magistrate and the prisoner's witnesses summoned on the part of Government; all is taken down in writing. An Indian magistrate who commits a case without very good grounds, receives a sharp reprimand.

prove the crime, the defence of the prisoner, and the names of the witnesses he had brought forward. The prisoners might be present at the time, to give them an opportunity of urging any neglect of what they had wished to bring forward before the magistrate.

This plan would not diminish the labour of the sessions' judge ; for the going through the whole of the magistrate's proceedings would usually occupy as much or more time as hearing the case in the present mode, but it would be a great boon to the people in saving them from a double attendance. If a little more consideration for their interests were shown, we should not experience the great dislike, not to say *horror*, of being concerned in a criminal prosecution*.

As part of the last new system, it will be necessary again to allude to the union of the offices of collector and magistrate, which was treated on in my paper No. VIII.; although, theoretically, the measure could hardly be approved of, yet, in the existing state of affairs, it was hoped that, practically, an improvement in the administration of justice would be the result. It was generally anticipated that every collector was to have a deputy, between whom and himself some proper distribution of the business should be made; the most expedient being that one should take the revenue, and the other the police department, while the subordinate police and revenue establishments remained perfectly distinct; under which view of the case, it was evident that justice would have been better administered than formerly, inasmuch as there were three people to execute the work which previously devolved upon two, and the civil business stood a chance of being put into operation after having remained inactive for so many years. It promised an immediate improvement; and, what is more, was a great step towards a proper principle, which would have been completed by erecting the deputies into magistrates perfectly independent of the collectors, and confining the latter to their proper business of collecting the revenue.

* The plan proposed is, I have since found, in force in the Saugur and Nurbudda territories, with very beneficial effects.

But, as the plan has hitherto been carried into execution, I am afraid little but evil has been the result. The love of power and jealousy of interference has, as I have already had occasion to observe (see No. XXIII.), induced the collectors almost universally to keep the whole authority in their own hands, while at the same time they throw as much of the labour as possible upon their deputies ; and the consequence is, that there is no definition of duty, and the people are quite at a loss to whom to apply. The police, too, pay their court, some to one officer, some to another ; and the conclusion of the whole is, that the benefit of the people and the interests of the Government are, in a great measure, sacrificed to the petty jealousies and disputes of the collector and his deputy.

Then, again, instead of keeping the subordinate establishments separate, by which some check was exercised over the native revenue officers (tuhseeldars) by those of the police, these have been also amalgamated. The tuhseeldars have been vested with the authority of police-officers ; the latter being in some instances discharged, to effect the petty saving of their pay ; and where they have been retained, have been made subordinate to the others. The same results have taken place between these two authorities as between the collectors and their deputies ; but, what is worse, the tuhseeldars have now uncontrolled use of the police, to enforce their extortions either for the benefit of Government or of themselves ; nor have they neglected to make a terrible use of these powers.

The evils of this state of anarchy are daily becoming more apparent. Increased oppression of the people, and laxity and inefficiency of the police, have been the result, and the natural consequence of this is, an increase of crime which would be found to be the case on due inquiry among the people, notwithstanding the more favourable appearance which the official reports may exhibit. The measure is, however, a favourite one with the Governor-General, and was adopted, in some measure, with the hope that the savings which it effected would, with the abolition of the provincial courts, provide for the new judicial tribunals, with possibly some surplus to be carried to account. Could

his lordship be aware of the intolerable evils which it has, in its practical application, entailed upon the people, he would speedily devise the only remedy which will now avail, and create the magistracy as a separate jurisdiction. The disorganization of society which is now proceeding at so rapid a rate, will, if this be not done, ere long force the measure upon Government.

The last point which will be touched upon in this paper is the military court of requests. A court of this nature was much wanted. The civil courts had great difficulty in giving a native justice against a military officer, and if complaints were carried to the commanding-officer, it was quite a chance whether he paid any attention to them or not, according to his prejudices, the humour of the moment, the dislike or willingness to undergo trouble, or the personal feeling which existed between himself and the officer against whom the complaint was made. I have known some commandants of stations whose only answer to an applicant for justice was a cane; and others, who at once jumped to the conclusion that the officer was of course in the wrong, and, scarcely listening to his justification, ordered him to "pay the complainant instantly."

But these freaks of power and favouritism are now over. The Act 4th George IV. c. 81, sec. 57, provides that all actions for debt, and personal actions against British officers, soldiers, and licensed camp-followers, provided the value in question shall not exceed 400 rupees, shall be cognizable by a court of requests, and not elsewhere; and the commanding-officer is obliged to convene a court when necessary.

The establishment of such a court was an act of great justice and expediency; nevertheless, these courts of requests are bitterly complained of by almost all officers. As they are composed of military officers, who are convened on oath to decide according to what appears before them, we can hardly suppose them to be guilty of partiality, particularly to the natives, against their brother officers. But there are two great defects in the constitution of these courts: 1st, that there is no appeal from their decision; a great evil, when we consider the arbitrary nature of these courts, and the fondness which most men acquire for exerting

their authority*;—2ndly, that these courts have not the power of punishing a man for making a false, exaggerated, or malicious complaint. Many, if not most of the officers who sat as members of them, have often remarked, that in the greater number of cases between an English officer and a native, the former is in the wrong; and after repeated instances of this sort have occurred, it is very difficult for a man to divest himself of all prejudice on the subject. This the natives are perfectly well aware of, and often bring false, or at least exaggerated, complaints before these courts against British officers. It is true they are liable to the penalties of perjury; but there are many degrees of falsehood which can never be brought under the head of downright perjury, such as would be punished by a court of justice. Suppose an officer owe a bill to a native tradesman, whom he has quietly told that he has not the money by him just then, but will liquidate the debt at the next issue of pay. I have actually known instances of natives lodging a complaint upon such a foundation as this, declaring that the officer had constantly put him off with promises, had abused him grossly, and even threatened to beat him. The officer stands by, and hears all this tissue of falsehood, after which he allows the debt, and professes his willingness and full intention to discharge it; but upon the other part of the accusation he is ready to prove its falsehood. Still the court cannot punish those who are guilty of this; the consequence is, that to avoid so humiliating a scene, many an officer allows a case to go by default, and pays an unjust demand. Some scoundrels, again, calculating upon this feeling, actually bring forward occasionally accusations which are totally false; in proof of which several instances could be given, in which they were abandoned the moment it was known that the defendant was resolved not to submit to such attempts, but intended to defend the suit. Why not grant these courts

* I knew a suit filed in one of these courts against a person who was not in any way amenable to them. He declined to attend, but sent a protest to the court against its proceedings. No attention was paid to this; the cause was given against him by default, which was what the plaintiff calculated on, for

the demand was a piece of roguery altogether; and this person was instantly obliged to pay the amount; and unable afterwards to procure any redress. Surely some provision should be made against such proceedings as these.

the same powers possessed by the civil authorities, of fining for contempt of court persons who are proved to have made false, malicious, or exaggerated complaints? The punishment should also extend to the witnesses employed to support them. Another improvement might be suggested, viz., to allow officers to answer complaints for wages, and other petty matters, by an attorney or agent, as in a civil court, instead of obliging them to appear in person.

There is one part of the enactment in question, which requires alteration without delay; for, at present, it allows any officer who is on the march, to oppress the people, and oblige them to furnish supplies gratis, with scarcely a chance for the injured party to obtain redress. An officer who is leaving Cawnpoor, may pursue this course the whole way to Meerut, a distance of two hundred and sixty miles, and the complainant can get no satisfaction, unless he follow him to the latter station, which, of course, would occasion a still greater loss than that he had already suffered. The law being an Act of Parliament, the Government here have no power to alter it, but a very good remedy has been suggested in No. XXV. of these papers, namely, to allow the local magistrate to investigate the business, and, if he think the officer in the wrong, to pronounce a sum as adequate damages. Should the officer object to this demand, as he may do under the Act, let him have the option of submitting to it, or being ordered down to attend a court of requests, in the district in which the alleged aggression took place. It is to be hoped, however, that the faulty parts of the Act will, ere long, be corrected.

The length to which this paper has already been extended, will prevent any discussion, at present, on the police, and the duties and abuses connected with the office of magistrate, beyond a few general remarks. The original principle on which our courts were formed was, that the magistrate should have authority to detect and bring to justice thieves and offenders against the peace, with the punishment of slight offences. Everything relating to property was to be decided solely in the civil courts, without giving the former the slightest power to interfere. This

was an extremely absurd rule, in a country like India, where there is so much land and other real property, of which it is extremely difficult to find out the right owner. In such cases, what is required is, a summary inquiry and speedy decision; giving possession to one party, and leaving the other to have recourse to the civil court. If the magistrate's order be ultimately found to be wrong, it is a less evil than allowing the disputants to kill and wound each other in affrays, which they would do annually, at seed-time and harvest, unless some settlement were made. To such a pitch was this notion carried, that I have actually known such cases as this. A man would go to his relation, and beg the latter to allow him to stay in his house a few days, on some pretence. This being granted, the new comer would remain some time; take advantage of the absence of the owner, toss all his furniture into the street, shut the door in his face, and proclaim himself master of the house. The ousted party goes to the magistrate for redress, who tells him that he cannot take notice of a claim to property; that the person at that moment in possession of the house must remain so, and that the other must have recourse to the civil court, where he may wait ten years before his cause is decided. I beg to assure my readers that this is no imaginary instance.

Of late years, Regulation XV. of 1824, and some other very good enactments, have been passed; and it is probable that some other points might be made cognizable by the magistrate, or, at least, in the summary and miscellaneous department of the judge, to the great furtherance of justice.

Let us, in conclusion, consider the general features of the British-Indian government. To the praise of good intentions they are entitled; but the execution of these was never to interfere with the realization of the largest possible revenue. This has been the daily and nightly vision which has ever been present to their imagination, and which has been pursued but too often at the expense of justice, good faith, and, I might add, good policy, were it not that those connected with the Government have no permanent interest in the welfare of the country. From the chief governor to his lowest subordinate, the same principle is in

action, and the same object in view. Each adopts the means most calculated to promote his own immediate benefit, and to further his future prospects in life. The latter know that the more they can extort from the people of India, the more rapid will be their promotion to the higher and more lucrative situations; and the former feels also that this will be his best claim to a pension. In prosecution of this principle, the sound measures and institutions of Lord Cornwallis have been gradually abandoned, whenever they interfered with the interests of Government; that is, whenever they were calculated to prevent extortion; for the same regard to the interests of the people is in vain to be sought for. The collectors were made prosecutor, judge, and jury; and had the influence which promoted these innovations continued much longer, the civil courts might have been abolished, as useless, and the people left, every man, to get justice for himself, in the best manner he could.

Better prospects are, however, I trust, in store. The new judicial system has been a commencement from which we may look forward to sounder and wiser measures of administration. For this, the present Government has received its full share of praise; for, until it be followed up by future improvements, it remains to be shown how far the spirit of economy has operated in these changes, and how much is owing to that of true benevolence. Public opinion, and the distresses of the country, will, ere long, oblige our rulers to set some bounds to their cupidity, and to create a property in land; and then, when the collectors shall be reduced to what they ought to be,—*tax-gatherers*,—we may look for some further improvement in the civil and police administration.

April 10, 1834.

No. XXXIV.

ON THE CHARACTER OF THE PEOPLE.

BEFORE I entered upon the discussion of this topic, it was my first intention to have completed a series of observations in detail on the laws and regulations established by the British-Indian government, and to have postponed the present inquiry to a future period; but on revising my notes for this purpose, the two subjects were found to be so intimately blended, by reason of the great influence which the laws we have enacted, and the customs we have introduced, have had on the character of the people*, that it is not only difficult to separate them, but the remarks on each will tend to illustrate the other.

The first and indispensable requisites in forming an opinion of the people of any country, are, impartiality, and the exercise of close and patient observation. Mill observes, "Even where information relative to India stood disjointed from other subjects, a small portion of what was useful, lay commonly imbedded in a large mass of what was trifling and insignificant: and of a body of statements given indiscriminately as matters of fact ascertained by the senses, the far greater part was, in general, only matter of opinion, borrowed, in succession, by one set of Indian gentlemen from another."

It will far exceed the limits of a single paper even to attempt to elucidate so comprehensive a subject. The present number will be devoted to preliminary remarks; and, in the first place, it is necessary to determine among the variety of conflicting opinions we daily hear regarding the character of the people of India, what class or classes of our countrymen are likely to prove the best guides, in enabling us to form a judgment.

One great impediment to a right estimation of the natives of

* Among others, the usury laws, amount of fraud, chicane, and per-jury: without one single benefit to which the English have introduced counteract the evil.

India, is the tendency obvious in those who have hitherto described their manners, customs, and character, to generalize upon mere partial and local experience. We constantly hear of remarks upon “the natives,”—anecdotes of “the natives,”—assertions regarding “the natives,”—as if the people to whom this term is applied, were a single and limited race, confined to a petty province. Now, in the first place, the natives of our provinces are divided into two grand classes,—the Hindus and the Moosulmans. Although centuries of intercourse have introduced some similarity of customs between the two, the former differ in their main features from the latter, almost as much as they do from the English; yet this circumstance is, I am convinced, known to many of the English, only as a fact which they have heard, not from the result of any personal observation*. I have met with many who, after having been several years in India, could scarcely mention one single point of difference; and, as a proof of the pitch to which ignorance and carelessness may be carried, the instance introduced in No. IV., of the officer who, after ten years’ residence in India, four of which he had spent at Agra, mistook the Tâje† for a Hindu temple, may be again alluded to. What should we think of the intelligence of a foreigner, similarly situated in England, who, after repeated visits to Westminster Abbey, should be so ignorant of its origin, as to imagine that edifice to be a Druidical temple; and who deemed the matter of so little interest as never to have asked a question on the subject? But, unfortunately, such want of interest among the English is too common to excite remark, in the case of India and its people,—to our disgrace be it said,—when we consider the responsible situations which we fill, and the effect which our ignorance or knowledge of their customs, characters, and manners, will have upon their happiness, property, and even lives.

* According to the idea of many of the English, the sole difference between the two classes is, that the one wear their dress open at the right side, and carry palanquins,—the other wear their dress open at the left side, and wait at table. I have known several Englishmen who were not aware to

which class servants, who had attended them for a year or two as *chuprasses* or *hurkarahs* (*lacquies* or footmen), belonged.

† The Tâje, or Taj-Muhul is the tomb of the Emperor Shahjehan and his queen.

But this is a digression. The Moosulmans are divided into two chief sects, as different from each other as that of Protestant and Catholic among Christians,—the Soonee, and the Shea; besides numerous subdivisions, as various as those of our own religion; whose tenets have more or less effect on their conduct in the affairs of common life; besides which, the localities in which they are found, have considerable effect in introducing modifications of character, though not to the same degree as among the Hindus.

The Hindus! Are they, again, one people? Is the country over which they are spread, but a single and insulated province? or is it a mighty and varied territory, possessing almost every variety of situation, circumstance, and climate? The Bengal presidency alone contains an extent equal to the half of Europe, and a population of at least sixty millions, divided into nations as numerous and distinct as the European quarter of the globe. Bengal, Assam, Arracan, Bchar, the Upper Provinces, Kemoun, the protected Sikh states, Rajpootana, and Bundelcund, contain, respectively, a people as different from each other as Italy, Spain, Portugal, France, England, the Scotch Highlands, the Northern States, Germany, and Switzerland. Madras and Bombay, and Central India, exhibit another list of nations who answer to our Hungarians, Greeks, Poles, Prussians, and various tribes of the Russians. Yet all this is forgotten, indeed, probably unknown to many of the English; a few menial servants, or two or three official employés, are all of this vast population with whom they have had any intercourse, and the result of this forms the basis of observations on the customs and character of *the people of India!*

The people, again, in each province are divided into castes and sects as various as our Episcopalians, Presbyterians, Methodists, Baptists, Quakers, and numerous others. There is hardly a district in which there does not exist some class or sect which is hardly known in the neighbouring one; and the tenour of their different tenets has also considerable effect upon their conduct in worldly affairs,—a fact, by the way, which will go far to overthrow the opinion of those who have declared their future con-

version to Christianity to be impossible, and which, on the contrary, gives every encouragement to hope for this great result in God's own time, provided it be undertaken with patience, discretion, temper, and judgment, with a due consideration of the general imperfections of human nature, and of the circumstances of each peculiar case. In the language of the people, there is undoubtedly a much greater similarity. The Hindostanee language and the Nagree character, with some variation in the dialects of different provinces (not greater than exists between those of Middlesex and Yorkshire), is understood over three parts of the continent of India; but this does not affect the truth of the statement in regard to other points.

The folly of drawing general conclusions from insulated observations, has been sufficiently noted as an acknowledged maxim; at the same time, we should bear in mind that the truth of general remarks can only be supported by an infinite number of particular facts. When these have been fairly reported, and the majority tend one way, we may safely form a conclusion as far as these go. *Ne sutor ultra crepidam.* If people would accurately note what they have actually observed, and in reporting their opinions give the reasons which have induced them to adopt them, and the opportunities which they have had, we should soon have materials to enable us to form a more correct estimate of the characters of the people than any that has yet been promulgated; and, what is more, we should advance by slow but direct steps, and not be likely to be led astray.

I cannot forbear here to pay a just tribute to Bishop Heber. Numbers have remarked on the difficulty experienced by Europeans in acquiring a knowledge of the natives of India; of the absence of social intercourse; of the small portion of leisure which is afforded by official avocations; and various other obstacles which have hitherto kept us in ignorance of our subjects; but Heber is one of the first who has publicly alluded to the absurdity of describing the people of India as one, and pointed out the great diversity which exists between those of different provinces. The more I read over his Indian Journal, particularly the correspondence with which it concludes, the more I see

to admire. When we consider that he had been but three years in India, possessed but a limited knowledge of the vernacular language, which his heavy official duties left him little leisure to acquire; and that this journal and letters were written off-hand, at various times, from the period of his first arrival, often in a hurried manner, and were never afterwards revised; it is impossible not to wonder at the accuracy of observation, extent of information, and, above all, penetration beyond the surface, which it displays in regard to Indian affairs. That there should be slight mistakes and inaccuracies, is not surprising; but often, where these occur, it is easy to see that he was led into error by diffidence in his own judgment, and taking upon trust the information he received from others, who, having been long resident in the country, ought, he naturally concluded, to have been well acquainted with the subject.

Among others, take his letter to Sir Wilmot Horton, dated Barreah, in Guzerat, March, 1825. It is a splendid production, and had Heber never written anything else, would have stamped him as a superior mind, to have been able, in so short a time, to have learnt so much. I do not think I overrate its value when I assert that of all the English who have spent the best part of their lives in India, although many might have been able to descant largely and technically on some particular point of detail to which their principal attention had been directed, not one in ten could have given the general information which that letter conveys. The observations of such a man as Heber,—a gentleman, a scholar, a poet, a traveller, and, above all, a sincere and enlightened Christian, one who had mixed in the best society at home and abroad, and had seen some of the most splendid scenery and finest works of art which Europe affords,—are indeed of value in the subject of which I am about to treat, and will enable one to check the cavils dictated by self-sufficient ignorance and conceit. *He* found enough to call forth his highest admiration and excite his most intense interest, where young men who are only just beginning the world cannot discover anything worthy to attract *their* curiosity or attention.

But it is, unfortunately, chiefly on local and partial observa-

tion that our information of the people of India has hitherto been founded. Mill sums up his description of their manners and morals by stigmatizing them as the most impure, deceitful, treacherous, dishonest, perjured, cowardly, and altogether corrupt race that ever existed, by attributing to them every evil quality, and scarcely giving them credit for a single good one. The testimony of the late Mr. Charles Grant, A. F. Tytler, Dr. Buchanan, and a host of others, are all produced. The observations of these witnesses are entitled to the fullest credit as far as they go; but two points are necessary to guide our estimation of the worth of their testimony; namely, a knowledge of the part of the country in which their sphere of observation respectively lay, and of the class or classes of people with whom they came into contact; the former, we know, was, with the exception of an occasional journey, confined to Bengal; of the latter we have now few means of forming an opinion, but if their communication was chiefly among officials and menials, it is no wonder that their impression of the people was so unfavourable. Mr. Ward's "Account of the Hindus," is another case in point. Had his work been entitled "An Account of the Bengalee Hindus, derived from observations in the neighbourhood of Serampore," it might have been correct enough, but to publish the book to the world as a description of the *Hindus* in general, as its title would imply, was as incorrect and unfair as it would be in a native of India, who, after residing some years at Naples, should give the result of his observations there as "An Account of the Christians." As far as relates to the Neapolitan Christians, there might be no fault to find; but the French, Germans, English, and Spanish, would hardly allow that the work contained a true delineation of *their* manners, customs, opinions, and conduct*.

Another important difficulty which the general inquirer finds in forming a judgment of the people of India, is, the conflicting

* The remarks of Heber in his journey through the Oude territories are worth notice. He mentions the misgovernment of that province, according to the information he received from the English; yet a careful perusal of his journal shows that, from the result of his own observations, he was inclined to come to a different conclusion.

statements and opposite accounts that he receives, and the perplexity he is under, in his applications for correct information, to whom to refer. We have the civilians, the military officers, the missionaries, the mercantile and miscellaneous classes, many of whom have spent twenty or thirty of the best years of their lives in India, and who might be supposed well acquainted with the subject, yet, in proportion to the opportunities which they have enjoyed, the sum of information which they could give would be small indeed. Some may possibly have passed years in the country, with little occasion for intercourse with any but a few menials, and they of course have little to offer in the way of information. Those in office, again, have their time so much occupied in current business, where the worst characters and the worst side of human nature are exhibited, (inasmuch as all who come before them have some object in view, which, for the time, tends to disguise their natural character,) that they have little or no opportunity for research, or general inquiries. Many of these have, unfortunately, adopted the idea, that, to be on familiar terms with a native, or even to treat him with civility, is derogatory to the English character, and that their official dignity is best supported by a haughty reserve. Others, both civil and military, openly profess to find nothing interesting in India. They wander from Dan to Beersheba, and cry, "all is desert;" and, after getting through their duty as speedily as possible, doing only just enough to escape censure, the remainder of their time is spent in idle amusements. The mercantile class, at least that portion of them who have resided in the interior, would perhaps, on the whole, be able to give the most accurate accounts of the people; their business brings them into contact with the respectable part of the community, and the prosperity of their concerns obliges them to treat those with whom they deal with civility; besides, their familiar intercourse has enabled them to discover that all are not bad. Too many, however, of this class, are apt to view the character of the natives with a jaundiced eye; they have come into the country, ignorant of the customs, manners, and language of the people; have at once entered, without due consideration, into speculations which they were totally unqua-

lified to conduct, have been obliged to trust their concerns to natives, of whose characters they were not sufficiently informed, and, as a natural consequence, have been cheated, or perhaps, ruined. Forgetting all these circumstances, and unwilling to own, that the real fault lay in their being in too great a haste to grow rich, and enter into business while ignorant of the mode of conducting it, or unacquainted with the language of those with whom they had to transact it, not considering the great encouragement to dishonesty and fraud, which is held out by the injustice and delay so common from the existing state of our courts, they at once form the conclusion that all the natives are rogues and cheats.

With regard to the missionaries, while every just praise should be rendered to the activity, zeal, and perseverance, which have distinguished them as a body, it cannot be denied, that there have been among them men, whose judgment has not been quite so eminent as their piety, and whose gloomy and narrow doctrines have but too much influenced their representations of a nation of pagans and infidels. Some of these well-meaning, but certainly prejudiced individuals, seem, as it was well observed in an English Review, to have adopted an idea, that to allow a single virtue, or good quality, to be co-existent with Hinduism, would be a virtual renunciation of the cause in which they had embarked. Many of these men come to India, abounding in zeal, with little or no discretion to regulate it. They enter resolutely and vigorously upon their duties; and when they meet with difficulties, instead of inquiring whether or not these may be, in some degree, attributed to their own ignorance and impatience, they throw the whole blame upon the people. From them we have, indeed, little less than a long catalogue of crimes and vices. Mr. Ward's account, which, by reason of his superior learning and research, is usually held in the highest authority, affords abundant proof of the extent to which prejudice may be carried. He was too sincere and upright a man to assert anything wilfully or knowingly false; but all his representations are drawn in the darkest and most severe colours. For instance, speaking of the ingratitude of the native character, he tells us, that they have not

even a word in their language to signify "thank you." Literally, this is true; they have not an exact synonyme for those two words, but it is not the *whole truth*, for it gives a false impression. They have abundance of *phrases* which convey the same meaning: moreover, they have a custom of putting the hand to the head, which answers precisely to our expression, "I thank you." The same custom among the natives corresponds with our expression, "I beg your pardon," in the event of one person accidentally jostling another in the street. As well might the natives accuse us of being ignorant of the common forms of civility, because we were guilty of what they consider the indecorum of walking into a room with our heads uncovered, and our shoes on. There is no end to this mode of one nation vilifying another; it is, however, unworthy of an educated or enlightened man*. The result of the little communication which exists between the English and natives of India is, that by far the majority of the former are totally unqualified to give an opinion respecting the character of the latter *as a people*, although they may be competent judges of the conduct of a few menials or officials with whom they have had intercourse, in private or public concerns; that is to say, of a few of the *worst portion* of them. Some, however, there are, and have been, to their honour be it said, who, in the language of Heber, "eschewing Calcutta altogether, have devoted themselves for many years to the advantage of the land in which their lot has been thrown, and are looked up to, throughout considerable districts, with a degree of respectful

* As a specimen of the spirit in which Mr. Ward's book is written, take his observations on the Moosulmans. "He who has read Park's account of his treatment by Ali at Benown, will, I apprehend, see the picture of a Muhammedan in every part of the world." —Vol. i p. 287.

Supposing a native of India had been treated in the most tyrannical way by the Portuguese governor of Goa, and were to publish an account of it: with equal truth and good-feeling might it be said, "He who has read this account

will see the character of a Christian in every part of the world." I once read, but do not at this moment recollect in what author, an observation, that no Hindu ever made a road except such as led to a holy place, and that, in spending his money for such a purpose, he considered that he was making a bargain for himself with the gods. With equal good-feeling, might the Hindus accuse us of being animated by the same spirit, whenever we subscribe to a religious or charitable institution.

attachment, which it is not easy to believe counterfeited."—Letter to W. W. Wynn, Esq., March, 1825.

Besides the qualifications already mentioned, as necessary to the formation of a correct opinion of the characters of the natives of India, that of an intimate acquaintance with the vernacular language of the country is no less indispensable, to which must be added familiar and intimate acquaintance with the people. The first is, indeed, a *sine qua non*; without it, a man of extraordinary talent may certainly observe some insulated facts, and acquire some general information. Heber is a splendid instance of what may be done with even a limited knowledge; but few have his powers of observation or penetration; besides, the probability is, (of which his Journal affords sufficient internal evidence,) that, notwithstanding the modesty which leads him so often to regret his imperfect knowledge, and the slow progress he made in the language, he was in reality better able to converse with the people than many, both civil and military, who contrive to shuffle through their duty without exposing their inefficiency to the notice of Government. Men of ordinary talent, however, will find a knowledge of the language of the people, so as to speak it in the style of their own gentry, indispensable towards gaining any acquaintance with their habits, thoughts, and feelings. Those who do not possess this key can only acquire information at second-hand, and their opinions are, generally speaking, of little weight, but on this subject I have already spoken fully, (see No. V. of these papers,) and, however imperfectly my own ideas have been expressed, sufficient matter will be found for reflection in what has been advanced.

The second requisite seems a self-evident proposition; but on this head there are many points which should be borne in mind. The high situations which most of the English Government-servants hold, undoubtedly present many obstacles to familiar intercourse; but these are not insurmountable, and are to be overcome by those who are resolved to do their duty. The object will require constant unremitted attention, and a firm determination to submit to much annoyance, and bear with patience and

civility the inflictions of many a tedious visiter. The natives have, unfortunately, hitherto been subject to so much neglect, supercilious contempt, rudeness, and even insult, from their English masters, that they view, with caution and jealousy, every new functionary who is appointed to preside over them. They study his character, watch his temper, and analyze his habits of application and business, before they venture to commit themselves by anything more than the formal visits of ceremony. Even when some degree of familiar and social intercourse has been established, little is to be gained by direct inquiries into the state of the country, or the feelings of the people. The native is immediately on his guard ; he does not know what may be the object of the question. He is alarmed at the idea of something prejudicial to his interest ; perhaps the imposition of some additional tax may excite his imagination (and I regret to say, the conduct of the English government has given too much reason for such suspicions) ; an ambiguous answer, therefore, is the natural result, or a profession of entire ignorance ; or, if the individual have a desire to recommend himself in the eyes of his master, such a reply will be given as he imagines most agreeable to the preconceived notions of the inquirer. It is long before sufficient confidence is established and respect gained, to induce the people to speak to a foreign superior freely, and without reserve ; but when that is accomplished, there is no nation who will display more openness and confidence in their communications. In the mean time, much may be learned by incidental observation and accidental remark ; and, if a man will attentively note these, and, as soon as he is alone, make memoranda of what he has learned, he will be astonished at the progress which, in a few years, he will have made in this portion of his duty ; for *duty*, I again and again repeat it to be, on the part of those whose lot it is to dispense happiness or misery to the people under their authority. But here, again, the little leisure which the parsimony of Government has afforded to its officers, is felt as the strongest impediment to their progress. After a man has been labouring from eight to ten hours a day, in the current business of his office, few have inclination, or even physical ability, to undergo any additional

fatigue; and the experience of the worst side of the native character, so constantly brought before them, has, of itself, a natural tendency to disgust and repel those who have no other opportunity of intercourse with them. This should be the more impressed upon the young men who successively come to India, because it is chiefly at the beginning of their career that they will find leisure to become acquainted with the people: moreover, it is at this period, when they hold only subordinate situations, that they will find the natives much more ready to communicate their sentiments freely, than when speaking to men who fill the higher offices.

The next point to be considered is, the localities of situation which will give the best opportunities for acquiring a knowledge of the people of India, and the concerns of the country. First and foremost, at least in the estimation of the residents of that city, stands Calcutta. With the French, Paris is all France: so with its inhabitants, Calcutta is all India. They know of nothing, they think of nothing beyond; all their ideas of India are drawn from what they observe in that immediate neighbourhood; and all their attention, or rather of the small portion which they deign to bestow on the affairs of India, is devoted to their own local and limited concerns. Their descriptions of Indian scenery, people, customs, language, and institutions are all drawn from this source, and unhappily, the advantage which their congregated numbers gives them in supporting each other in their erroneous notions, causes their representations and lucubrations to pass current in England; nay, gives them an appearance of *superior value* in the estimation of the mother-country. I have frequently heard at home, the observation of a man who had lived in the interior of the country met by the remark, “But you have been very little at the seat of Government, where, doubtless, the best sources of information are to be found.” What are the advantages enjoyed by those at the presidency for acquiring a knowledge of the subject under discussion?—To enable us to reply to this question, we must analyze the habits of the English inhabitants of Calcutta; the quantum of intercourse which exists between them and the natives; and the class of the latter, who are most

conspicuous there.—The resident English population comprises a considerable number of civilians, some military officers, chiefly on the staff, a large proportion of merchants, a few lawyers, a few clergy, missionaries, and others: the members of each of the four last are comparatively small. The general habits of life as follows.—To rise early, and take exercise chiefly on one spot,—the course. After breakfast, to go to their offices on business; at sunset, to take another drive; and to spend the evening in the society of their own countrymen, where Indian affairs rarely form any part of the conversation. Their acquaintance with the localities of Calcutta is limited to the environs of the Government House, Chowringhee, the Esplanade, Garden Reach, and the roads to Dum-Dum and Barrackpore. It is probable that if any one of by far the majority of those who have passed from ten to twenty years in Calcutta were taken blindfold to a distance of three miles from his own residence on any other road, and there turned adrift, he would be unable to say in what unknown part of the world he found himself. As to their intercourse with the natives, it is confined to occasionally *seeing* a few at the theatre, or other public place of resort; to accepting once a year an invitation to a Natch at some festival, for the purpose of exhibiting the *puppet-show* to some newly arrived friend, where, perhaps, a salutation in English is exchanged with the host; to a chance meeting for a few minutes, either at their own or some friend's house, with some *lion*, like Rammohun Roy; and to giving directions in the fewest possible words to their own servants. Their knowledge of the vernacular language of the country is much on a par with what would be likely to be acquired of English by a few foreigners, who, under similar circumstances of habits and intercourse with our own countrymen, might be congregated about Wapping, or the purlieus of the London Docks*.

* One of the constant and reiterated observations of the English is, "that there is no public in India," "no body of people to restrain by their good or bad opinion the acts of Government." There could not be a stronger proof of the little inter-

course which takes place between the English and the *people of India*. In making such assertion, an English public is all that is thought of: the rights, feelings, and opinions of some millions of people are unworthy of consideration!

Of course, there is no general rule without exception.—There are, undoubtedly, some in Calcutta, whose knowledge of the people of India is extensive and accurate; but it has been acquired, not by a residence in that city, but during their abode in the interior of the country; and even these, after having been for some time located at the Presidency, too often lose their interest and recollection of what they have thus acquired, and insensibly become biassed and influenced by their associations and connexions with the inhabitants and the pursuits of the town. These, again, know as much about the people of the interior as the worthy citizens of London, who have never in their lives been beyond the sound of Bow-bells, do of the Highlanders or the Irish. To such an extent is their want of observation, and neglect in regard to anything *native* carried, that there are many whose establishment consists of from ten to forty or fifty servants, yet, who are not acquainted with the names of above two or three, and who do not know above a third or fourth part even by sight.

But even supposing that familiar and social intercourse were established between the English and native inhabitants of Calcutta; would this be sufficient to warrant general deductions and sweeping observations as to the character, feelings, and opinions of the population of the whole country? The Calcutta Baboos are, doubtless, very respectable men in their way; but are they a proper class to be selected as the representatives of the people of India? There is scarcely a family in Calcutta, who can trace its origin beyond the days of Clive. Almost every man of wealth or respectability of appearance (I use the term in its common acceptation), is the son, grandson, or at farthest, great-grandson, of some petty clerk or menial servant in the employ of the first early English functionaries. They and their families have risen in the world by the plunder of their countrymen; by the peculiar circumstances which brought them forward in the early period of English misrule, and gave them especial advantages; or by retail trade, at a time when the English merchants were so few, that ample scope was afforded for their superior intelligence and spirit of speculation in the foreign commerce of the country. Such is the origin and rise of what are called the “native gentry”

of Calcutta. Their education, until these very few years, has been confined to what is commonly bestowed on a mercantile clerk or a shop-boy. Those who went a step beyond this, were enlightened by the licentious histories of their gods and deities, and the inconceivably fictitious trash which is there to be found, setting the inventions of all other nations at defiance. I have no wish to detract from the merit of this class of our native fellow-subjects, or to lower them in the general estimation. I am only speaking of the degree of weight which should be attributed to them, considered as an influential class of society, and the place they should occupy, in our estimation of the natives of the country. They are a rising and improving body of men, and deserve full credit for the spirit with which they are advancing in knowledge and general improvement; but it should be remembered, that every step they have hitherto made, has been in the acquisition of *European* information and ideas; and that, in imbibing the superior intelligence of their English masters, they have also adopted no small portion of their *vices*; so that they are the last class which should* be selected from whom to form our judgment of *the people of India*.

Under such circumstances, what portion of information regarding India, can be obtained from the English residents at Calcutta? To which class shall we apply? The merchants could tell the price of the articles in which they deal; the quantity exported or imported; and the amount which those natives with whom they are connected are said to be worth. The lawyers, and those connected with the Supreme Court, could point out certain disreputable characters, and certain others supposed to be wealthy, or who, at least, were so, before they tasted the sweets of English law. From the clergy and missionaries, it is too probable that the accounts received would be in the spirit of Mr. Ward and Dr. Buchanan; though I trust, of late, a more charitable and benevolent feeling towards the people has arisen. From the military, the information would depend on the intercourse they had had with the people in the interior; and the same general remark

* The remarks of Byron, on the little intercourse that takes place in Turkey between the English residents and the people, are very apposite.

applies to the civilians; but these require a few observations in detail. From which of this class can we obtain the information we require? The members of the Secretariat have been, with few exceptions, for many years trained up in Calcutta. They would, probably, be able to give the best information regarding our political relations, because this species of intelligence can be communicated by writing as well, or better, than by any other mode. In regard to other points, we might obtain from them an account of any new project of Government, the despatches to and from the Court of Directors, and the substance of the reports sent in by the different courts and boards. From the commercial department, the information they would yield, would be of much the same nature as that to be derived from the independent merchants of Calcutta, only not half so complete, or so much to be relied on. Those in the office of audit and accounts, provided they were allowed to refer to their books and clerks, could tell the income and expenditure of the Government, and the expense of each office and article in detail. The Sudder Board of Revenue, and the court of Sudder Dewanee* are almost the only departments, the members of which are qualified to give any real information regarding the people in the interior of the country, and the operation of the system of the British government. The members of these courts have generally been men of great local experience; but these offices form by no means the best school of instruction for the young men who are hereafter destined to fill important situations. The business of the court and boards is conducted almost entirely by writing; the juniors cannot be called in to assist the members and judges in their deliberations; and have hardly any opportunity of hearing a trial or proceeding. They are principally occupied in making translations; the secretaries and registrar, with their deputies and assistants, are, therefore, generally speaking, good *Persian* scholars, but possess very little acquaintance with the colloquial and vernacular languages of the country. On other points they could, but not without reference to the records, tell little more than the increase or

* Chief Civil Court.

decrease which had taken place in each district, in the revenue, and in the amount of crimes.

This can hardly be denied to be a true statement, and it seems pretty evident how little real information is to be gained of Indian affairs among the English population of Calcutta. How can it be otherwise, when, with few exceptions, it is all obtained at second-hand, from others, and is not the result of personal intercourse and investigation? Doubtless, a man of general intelligence and superior ability may learn a great deal from the reports of others; and the Indians themselves have a well-known and striking apologue*, to prove the superiority of the comprehensive student over the partial observer; but how few are there who possess the talents of analysis and combination requisite to elucidate and reconcile conflicting accounts, and how much fewer are those who, among the gaieties and social intercourse of the capital, have sufficient interest in the affairs of India to take the trouble, if they had the power of so doing. I shall endeavour to illustrate the subject by a reference to a simile I have more than once introduced. Supposing the Africans had commenced their career of European conquest in Italy, in an obscure seaport of which they had established their seat of Government. That they had gradually extended their empire over Spain, France, Germany, and the British Isles. That a portion of these Africans never quitted that seaport, but were there employed in mercantile pursuits; in auditing and casting up accounts; in translating papers; and in preparing reports and figured statements of matters connected with Government; in short, that their official time and hours of recreation were passed as those of the English are at Calcutta; that the only natives with whom they could have any intercourse were the immediate descendants of clerks and menials, whose sole education consisted in having read the legends of the Roman Catholic saints, and, latterly, some little knowledge they had acquired from the Africans. Suppose that another portion of these sable conquerors were employed as judges, magistrates, agents for managing estates, and other

* See that of the village of blind men, who wished to gain an idea of what sort of an animal an elephant was, in Ward. It is also quoted by Mill.

offices of this nature, in the interior of France, Germany, Spain, and England; some of them in constant communication with the nobility, landed gentry, farmers, and mercantile and labouring classes. Which of these two divisions of the Africans would be most likely to be really well acquainted with the manners, customs, habits, thoughts, and feelings of the people of those respective countries?

We could hardly find a stronger example than that of Mr. Holt Mackenzie, a man of great talent, unwearied assiduity, and determined perseverance. In all points of theory, he was supreme. There is hardly a collector in the country who could so accurately state the average produce of an acre; the productions of different districts; the names of the different village-officers; or who, indeed, possessed so much general and particular knowledge on all those points connected with the revenue, which may be learned from reports and written communications. Yet his various minutes and resolutions, and, above all, his famous Regulation VII. of 1822, are standing proofs how much he had still to learn of the practical working of our system, and of the detail of the British internal administration. Yet, unfortunately, hitherto, men who have been educated as he has been, in Indian affairs, have had the chief share in legislating for the British-Indian empire. The Special Commission and Resumption Regulations are another illustration of the sort of legislators to whom the enactment is intrusted, of laws on which the rights and interests of so many millions of our fellow-subjects depend. In further illustration of this subject, I cannot help referring to the opposite opinions of Sir Charles Metcalfe and Mr. W. B. Bayley, on the attachment or dislike with which we are regarded by the natives. The former observes, "He (Mr. Bax) seems to me to have put out of sight the nature of our situation in India. We are here by conquest, not by the affection of our subjects; and this universality of tranquillity to which he appeals, is an effect of that extent of force and perfection of equipment, to which he objects. That tranquillity did not exist when our force was smaller, and would not continue long, if our army were much reduced. He speaks of our force, as indicating

that we are in a hostile country: and so we are, as we should soon find it, to our cost, if we were supposed to be weak. The figure of an enemy starting from the earth, which he mentions in ridicule, as if we had none otherwise, would, to appearance, be almost realized in the swarms of enemies which would show themselves, if they thought that they could assail our power with any hopes of success.”—Now hear Mr. Bayley:—“I by no means, however, entertain the persuasion that there exists among our own subjects any active spirit of hostility towards our Government; on the contrary, I am satisfied that*, at least, in our more settled provinces on this side of India, the most respectable, wealthy, and influential classes*, are, to a certain extent, attached to us, and would be undesirous of any change of masters. In countries which have been more recently acquired,” &c.—See the minutes of these, respectively dated October 18, and November 9, 1830, which have been lately published. Now, both these opinions are correct; and the difference is easily reconciled by considering the lights and opportunities of observation from which each is derived. Sir Charles Metcalfe speaks from the result of extensive intercourse with high and low, rich and poor, in a vast portion of the interior of the country. If, in the quotation from Mr. Bayley, we erase the words which I have marked between asterisks, and substitute for them “the Calcutta Baboos,” we have the key†. Each person speaks of a totally different race of men. That the Calcutta Baboos should not wish to see the British power overthrown, is probable enough; and the reason is equally plain. Their origin, rise, and the mode in which their families have acquired their wealth, has been already alluded to. They have done nothing to establish an influence among, or acquire the esteem and respect of their tenants: they have chiefly resided in the capital, spending their time in selfish pursuits, or idle amusements; abandoning their estates to agents, with instructions to make the most of them, and only making an occasional visitation for the purpose of

† In his younger days, Mr. Bayley had resided some time in the interior; but I believe he was never out of Bengal, or even any great distance from Calcutta, and for many years he had never left that city.

raising their rents; and, moreover, their importance is solely derived from the intercourse they have with a few of the English, at the seat of Government. They well know that, in the event of any sudden overthrow of our power, they would be immediately marked for plunder by the sons of those whose property their fathers had acquired, by the assistance of British misrule. Yet, even to the attachment (if it be worthy of the name,) of these men to the British government there seems to be some drawback, if we may judge from the saving clause, "to a certain extent," which immediately follows in Mr. Bayley's minute. He then goes on to admit what, divested of its paraphrase and mild terms, amounts to this:—that, in most other parts of the country, we are detested by the people; a truth which will daily become more evident, as inquiry advances:—indeed, considering the treatment they have received, it would be wonderful if it were otherwise. Yet it is probable that, in England, Mr. Bayley's opinion will have much more weight than that of Sir Charles Metcalfe. The one, it will be said, has been more at head-quarters, while the other has been chiefly employed in the country.

But on the character of the people, what shall we say to the attempt to generalize, upon mere local and partial observation, regarding nations as diversified in character and customs as those of Europe, and partially so relative to language? In those of the different provinces will be found the usual proportion of good and bad. Instances without number may be adduced of roguery and honesty; habits of impurity and cleanliness; kindness of heart and cruelty; morality and licentiousness; low cunning and childish simplicity; extraordinary intelligence and bullock-like stupidity; falsehood and truth; cowardice and bravery; information and ignorance;—in short, of almost every quality that can be imagined. Nay, the very same people will, under different circumstances and opportunities, exhibit the most opposite dispositions: "so idle is it," as Heber observes, "to ascribe uniformity of character to the inhabitants of a country so extensive." The constant misapprehensions and mistakes which are made by the English, from mere want of observation,

are astonishing. For instance, the majority of the inhabitants of Bengal and Orissa do not eat meat. This has been ascribed to a religious precept against destroying animal life, and they have received abundance of praise from their admirers for their humanity. Yet almost all, of whatever caste, constantly eat fish. The probability is, that the custom of not eating meat had its origin in poverty, and has been confirmed by habit; which is by no means a far-fetched supposition. Many of their most rooted customs have no better foundation, or have arisen from accident. Many of the highest Rajpoots and Brahmins in northern and western India will eat goats, venison, and wild hog's flesh, while they abhor that of sheep, or domestic swine. Some will eat the jungle fowl, (which in appearance is little different from a game-cock, except in size,) who would think the touch of a domestic fowl pollution. Most castes will eat some particular kind of food, but refuse others; for which it is impossible to assign a rational cause. At Bickaneer*, all Hindus profess a whimsical abhorrence of fish. In Kumaon, they will eat the short-tailed sheep of the hills, but will not touch one with a long tail. Many classes will eat bread baked by the people who would lose caste if they were to touch boiled rice dressed by the same hands. Many tribes will allow a man to smoke through his hands from the bowl (*chillum*) which contains the tobacco, who would not allow the same person to touch that part of the hookah which contains the water. An earthen pot is polluted beyond redemption, by being touched by an inferior caste: a metal one suffers no such deterioration; and so on, to the thousand-and-one instances which might be produced, hardly any one of which is reconcilable to principle, and with the peculiarities of which nothing but constant and unremitting attention can make us conversant.

In points of greater importance, we may observe as great a difference between the different tribes of Hindus as among the different sects of Christians. The ceremonies of the *Ruth Jatra*,

* Situated in the midst of a tract so barren as to be little better than a sandy desert, in which rivers or pools of water do not exist, and where the wells are three hundred feet deep.

in which a huge idol is drawn about in a car, under the wheels of which, in former days, devotees used to throw themselves to be crushed,—the abominations of the Churruk Poojah, where poor fanatical wretches are swung round by hooks fixed in their flesh, are utterly unknown in northern and western India. Even the religious holidays which are observed in Bengal, are different from those kept in the Upper Provinces. In some parts of western India, again, female infanticide is almost universal among certain classes; in other parts, the horrible practice is only mentioned in abhorrence. In some provinces, it is common for a man to have several wives; in some of the Himalayh districts, one woman has several husbands, who are all brothers. Among some of the tribes on the Madras coast who are considered of high caste, the females never marry, but remain in their parents' houses, and intrigue with whom they please, provided the man be of the same caste, and the children are considered to be the property of the woman's family. In some places, the marriage of a daughter is a cause of great expense to her family; in others, a source of profit, because the husband pays a considerable sum to her parents; and he has the power of selling her again, or even mortgaging her for a certain time, for a debt which he is unable to pay. Women of some tribes will cohabit with men without being considered to lose caste, which they would infallibly do if they were to eat with them. Even the Moosulmans have, in many points, insensibly contracted ideas about caste, for the adoption of which they are thoroughly despised by the people of those countries from which they originally came. A Persian or an Affghaun looks upon an Indian Moosulman as a half Hindu. But it is not my intention to enter into detail in this paper, which is only introductory to a future more minute consideration of the subject. Before I conclude, however, I must again allude to the difficulty which a stranger would experience in reconciling the extraordinarily different accounts which he would receive from the English in India of the character of the natives. By one class, and by far the larger, they are described in the most odious and degrading colours. These are generally given by those who have least communication with them; whilst

others, who are better acquainted with them, struck with the injustice of such sweeping accusations, are in danger of running into the other extreme, and giving them a character for virtues beyond their just merits. This is much to be guarded against; but there is some difficulty in avoiding it, when we consider one circumstance, already adverted to, which tells greatly in favour of the people of India, and which is, moreover, a positive, undeniable, and unexaggerated fact. Almost all those who, either as magistrates or members of a military court of requests, have had much to do in deciding suits and complaints, in which the respective parties are Englishmen and natives, have repeatedly declared that, in by far the greater number of instances, the Englishman has been in the wrong. After a constant succession of such cases as these, it is almost more than human nature can do, to avoid acquiring a bias towards one party. Another curious, and, indeed, rather amusing circumstance, is the totally opposite accounts which a stranger would receive, were he to ask the English their opinion of the servants, dependants, and *employés* of themselves or their friends. In the latter case, he would hear a long catalogue of roguery and neglect of duty of every description. Were he to put the question,—“Is this the character, too, of your own people?”—he would usually be given to understand that the establishment of his informant was an exception to the general rule; that he was greatly respected by the people; that he had taken great pains to select respectable individuals for his own service; and that he was fortunate in possessing the *few* that he believed to exist; besides which, he was so vigilant, that even if they were inclined to do wrong, they dared not offend him. Of the existence of this feeling of sensitiveness to the imputation of anything amiss in our own concerns or interests, the following anecdote will afford an instance. A certain civil functionary always maintained that every native, without exception, was a rascal. One evening, his treasurer put a bag of rupees into a box, of which he kept the key, over which there was a guard. The next day, the box was found locked, as usual, but the money gone. The civilian and his treasurer loudly accused the guard;

but as no less than four or five men had stood sentry in the interim, it was impossible to fix on the guilty individual. As the treasurer had no witness to his having put the money into the box, some one suggested the possibility of its being an invention of his own, to embezzle the amount. The vanity of the civilian was immediately roused at this,—he spurned the idea, declaring that *his* treasurer was far too respectable a man to deserve such an imputation.

April 15, 1834.

END OF THE FIRST VOLUME.